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Decentralization process and financial autonomy of local government units in Albania

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Abstract

The purpose of this paper is to give a general overview on the decentralization process and on the financial autonomy of local government units in Albania. The principal base for the analysis done is the legal framework, accompanied shortly with examples of its implementation in several communes or municipalities. The paper is organised in 3 issues, which treat respectively the organization of local government in Albania, decentralization of functions and responsibilities in favour of the units of local government, and their budget and resources of financing. There has been some difficulties in practice during decentralization process raised out when fulfilling the whole legal framework on exercising exclusive and shared competences of local units of government, because of the dependence by the respective institutions for the implementation of legal acts for exclusive and shared functions in the fields of education, economic support and health care, and by lack of funds of the responsible ministry to transfer the service of water supply. In Albania seems yet early to give right importance to regions, and especially with regard to the aspirations for European integration many challenges raise to the Albanian institutions.

Introduction

The first constitutional regulations after the democratic changes in Albania in the years '90 preview shortly some general principles of local governance without giving any further details, leaving other things to be regulated by law. It should be noted here that the Albanian constitutional law nr.7491, date 29.04.1991 "On the main constitutional dispositions" – this law was meant to be temporary, which rises indirectly from the dispositions of the law itself when stating that the dispositions of this law will be in force "Till approval of the Constitution of the Republic of Albania, which project will be prepared by an ad-hoc commission charged by the Parliament" – was further reviewed in 1992 by adding a supplement titled "On the organization and functioning of the local government", which contained main principles of local governance, and was further implemented with respective laws. Since then, clarifying the functions and the competences of the units of local governance, and transferring them from the central government to the local one, has been one of the main issues in the framework of the decentralizing process in Albania; meanwhile the actual sources of law concerning decentralization and financial autonomy of local governments are:

- The Albanian Constitution of 1998.
- The European Charter of Local Self-Government – a document elaborated in the framework of the Council of Europe and ratified by the Albanian Parliament with the law nr.8548, date 11.11.1999.
- The law nr.8652, date 31.7.2000 "On the organization and functioning of local government" revised with the law nr.9208, date 18.03.2004.

The organization of local government in Albania.

Organization and functioning of local government in Albania is done in conformity with the principles of decentralization and local autonomy, which are proclaimed by art.13 of the Albanian Constitution (which states "*Local government in Albania is created in base of the principle of decentralization and exercised in accordance with the principle of local government autonomy*")., by so distinguishing that "decentralization" and "local autonomy" are different

concepts. Other related principles are those stated in Part 6 of our Constitution “Local government”, in the European Charter of Local Self-Government (ECLSG here in after), and the above mentioned law “On the organization and functioning of local government”. Decentralization, in a general context, is determined as a transfer of assets and functions of governing and administering from central level to local level. This transfer includes power, authority, functions, resources and responsibilities. The shapes, in which decentralization appears, are deconcentration, transfer and delegation (DOBJANI E., 2007, p.203-204. The author here gives also definitions of deconcentration, transfer and delegation, such as following: *deconcentration* is a transfer of resources, responsibilities and authorities within a central institution or administration; *transfer* is the most radical form (or shape) of decentralization, which is related to the existence of legal local levels of governing, and transfers the responsibility and ability from central institutions to local ones, that are independent by the legal or constitutional point of view; *delegation* is form of decentralization that sends the responsibility and authority of accomplishing certain functions in public or half-autonomous agencies or institutions placed on local level). The decentralization of functions and responsibilities in favour of local government is treated below in the second issue of this paper.

The concept of local autonomy, as defined in art.3 of ECLSG, is understood as the right and the ability of local authorities to regulate and manage, within the limits of law, a substantial share of public affairs under their own responsibilities and in the interest of local population. This right is exercised by local councils or assemblies, which may possess executive organs responsible to them. The notion of “ability” expresses the idea that the legal right to regulate and manage certain public affairs must be accompanied by the means of doing so effectively; meanwhile the expression “under their own responsibility” stresses that local authorities should not be limited to merely acting as agents of higher authorities. In reality most affairs have both local and national implications and responsibility for them. To limit local authorities to matters which do not have wider implications would risk relegating them to a marginal role, while the intention of the Charter itself is that local authorities

should have a broad range of responsibilities which are capable of being carried out at local level (Council of Europe, 2010, “European Charter of Local Self-Government and explanatory report,, p.34-35). The concept of autonomy may be accounted for mainly three: a) *normative autonomy* understood as “power attributed to bodies different from the state, in a state legal systems, to adopt rules of the same legal system”; in this sense communes, municipalities and regions are “autonomous bodies”, although they’re not the only subjects dotted with normative autonomy (lets remind here for example unions); b) *organizing autonomy*, characterizing the legal situation of proper independence of some type of entity compared with other homogenous entities, in the sense that the first ones enjoy a juridical order partially different from that to which are subject the second ones (lets think here on the autonomy of universities); c) *political autonomy*, understood as a power of some bodies to give itself a political policy different from that of the state. As to *financial autonomy*, it doesn’t constitute a single characteristic, but indicates a quality of organizing autonomy, meaning the (relative) self-sufficiency of some subjects regarding the provision of financial resources necessary to carry out their activities (Martines, 2005, pp.639-640): for example art.111 /2 of the Albanian Constitution previews that local government units have independent budget, for which creation is given sufficient authority to the them by law. On their financial sources there’s further treatment in the third issue of this paper.

The mission of local government in Albania, as previewed in art.3 of the law “On the organization and functioning of local government” – which by the way is in compliance with art.4 of ECLSG, – is to provide governance at a level nearer to the citizens by means of: acknowledgment of the existence of different identities and values of the communities; respect of main citizen’s human rights and liberties stated in the Constitution or other laws; choosing different sort of services and other local public facilities to the good of the community; effective exercise of functions, competences and realization of duties by the organs of local government; realization of appropriate services; effective egging of community participation in local government. The system of the administrative authorities of local governments is created and acts in base of the administrative

territorial division of the state, which according to art.108 /2 of the Albanian Constitution defines that “The administrative territorial divisions of the units of local government are determined by law on base of economic common needs and interests, and historical tradition. Their limits could not be changed without having the consent of the population that lives there.”

Units of local government in Albania are communes, municipalities, regions and respective subdivisions. Art.108 /1 of the Albanian Constitution contain a legal reserve for the further creation of new units of administrative territorial division. An example here can be given by the administrative territorial organization of the Municipality of Tirana, where by special law were created the Municipality Units of Tirana, which constitute separate territories within Tirana. They have representative and executive organs with limited service competences without ruining the unique character of Tirana Municipality. This division has created the conditions for building: appropriate organs for the local government to the good of respective communities, local democracy and the realization of the decentralization reform. Meanwhile, administrative division is still flexible and can be changed. Changes can be done to the good of the specific zone’s development, in compliance with the national programs of development, with acceptable arguments, and also with a procedure that guarantees the taking of opinion by the inhabitants and their representative organs (“Main principles of the organization and functioning of local government”, 2004, p.4-5). The decentralization process in the concrete conditions of Albania asks that the needed procedures and acts for the transfer of competences and functions should also be made by perseverant expression by the units of local government themselves. In accordance with the Constitution (art.108) and the above-mentioned law “On the organization and functioning of local government” (art.5), the local government operates in two levels:

a) *Basic units of local government*, which are: communes and municipalities.

b) *Second level units of local government*, which are: regions.

a) The administrative territorial division of the Republic of Albania has 309 *communes* and 65 *municipalities*.

The commune represents a territorial administrative unit by rule in rural areas and in particular cases in urban areas also; meanwhile the municipality represents a territorial administrative unit mainly in urban areas and in particular cases include also rural areas – these are the definitions given by art.5 /2,3 of the Albanian law “On the organization and functioning of local government”. By them we can simply understand that the commune includes some villages; meanwhile the municipality is created principally on city base. Subdivision of the commune is the village or, in rare cases, the city; subdivision of the municipality in urban areas is the quarter, but it can be also the village when the municipality includes rural areas. According to Albanian legislation quarters are created by decision of municipality council in a territory with more than 15.000 inhabitants, and villages are created in a territory with more than 200 inhabitants. Essentially, there is no difference in the governing role between municipalities and communes. In each commune and municipality there are representative and executive organs of local governing, which are appointed by general, direct and hidden elections every 4 years. Representative organ is the respective council (communal and municipal council - the number of councilors, as previewed in art.24 of the law “On the organization and functioning of local government”, is appointed by the prefect for each commune and municipality under his jurisdiction, in base of the number of inhabitants according to the evidences of civil offices of 1 January of the year in which elections are held. Art.24 also sets the number of councilors in proportion to the number of inhabitants in each commune or municipality), while executive organ is the Mayor. The Mayor exercises all the competences in accomplishing the functions of the commune or municipality, except those that are mere competence of the respective council. A general overview on the functions of communes and municipalities is given in the following issue of this paper.

b) The territorial administrative division of Albania is actually composed of 12 *regions*. The region is an administrative-territorial unit that is composed of several communes and municipalities with geographical, traditional, economical, social connections and joint interests (art.5 /5 of the Law “On organization and functioning of the local government”). Subdivision of the region is the district. Representative organ of region is the Council of Region, which is not directly

elected, but is created by representatives of the elected organs of the communes and municipalities, from which it's composed, in proportion to their population. Mayors of these communes and municipalities are always members of the council of region, the other members are appointed from among the councilors of communes and municipalities; in cases when there is only one representative, this is directly done by the mayor. Executive functions in region are performed by the Chairman and the Leadership of the Council of Region. Under the provisions of art.58 of this law, Leadership of the Council of District consists of chairman, vice-chairman and from 5 to 9 other members. Chairman and vice-chairman are individually elected and discharged by majority vote of members present at the meeting, while other members are elected by vote with multi-name list of candidates and winning candidates are announced the ones who received more votes. The role of region, as stated in art.13 of the above-mentioned law, consists in creating and developing regional politics and in coordinating them with central government politics. Region exercises also all the functions to it delegated by one or more communes and municipalities within its territory, according to deals among them. In practice the role of region is not yet effectively enacted, because its functions are related to the awareness of communes and municipalities to delegate functions to it, which awareness is still low and they don't yet understand the effectiveness of sharing and delegating competences, especially in the future integration of Albania in European Union, which's connection with countries and applicability of action plans is done principally in region, and many challenges raise to the Albanian institutions. In fact, except representation of common interests of communes and municipalities, absorption of financial funds from the EU is presented as additional reason on the importance of the region. In Albania seems yet early to give right importance to regions, and increased funding for them has begun in 2005-2006. It's important to stress that the role of region is not further deepened on, and it's not clearly defined, because of "mixed" actions and competences with the prefecture, the municipalities and the communes, which can bring to conflicts between respective authorities. The representative of the Council of Ministers in the region is the Prefect, as stated in art. 114 /1 of the Constitution, and his competences

are regulated by the law nr.8927, date 25.07.2002 “On the prefect”, among which we can mention: to control and coordinate the activity of central institutions in regional level, and to coordinate their activity with the organs of local government units. There is no subordinate relation between the prefect and the organs of local government; meanwhile the prefect does the verification of lawfulness of normative acts approved by the local government authorities in communes, municipalities and regions. He also exercises the financial control on these organs in the way and limits stated by law for the part of their funds, which was released by the central government.

Decentralization of functions and responsibilities in favour of local government

The decentralization process, clarifying the functions and competences of local authorities, and their transfer from central to local level is still one of the main challenges faced by local authorities. The Strategy on decentralization and local self-governing, based on the standards determined by the Albanian Constitution, ECLSG and the law “On the organization and functioning of local government”, paid special attention to the decentralization and transfer of functions in harmony with the fulfillment of necessary demands with the objectives for this transfer to be successful in order to bring a more effective governing. The classifying of functions of local authorities was defined for the first time with the law “On the organization and functioning of local government”, art.9, such as follows:

- a) *exclusive/own functions*,
- b) *shared functions*,
- c) *delegate functions*.

a) The determination of *exclusive functions* is more explicit for local authorities of basic units (commune and municipality), which are responsible for their realization and have the freedom and the authority to decide and use the resources for their fulfilment. In this aspect, according to art.10 of the law “On the organization and functioning of local government”, exclusive functions of the commune and the municipality are: i) in the field of infrastructure and public

services: water supply, construction and reconstruction of local roads, sidewalks and public places, lighting public environments, urban public transport, etc. Those are explicitly defined by law; *ii*) services with social, cultural and sportive character: saving and developing local cultural and historical values, organization of sportive activities, social service and administration of respective institutions, such as crèches, asylums, orphanage, etc; *iii*) local economic development: preparing action plans of local economic development, building and functioning of public markets, development of small businesses and inciting activities such as fairs and advertisements in public places, organization of services in order to support local economic development such as information, structure and necessary infrastructure, veterinary service, safeguarding and developing the forests, pastures and other natural resources of local character; *iv*) order and civil protection: safeguarding public order to preview administrative violations and guarantying fulfilment of the acts of commune and municipality, and also civil protection.

There are yet obstacles and difficulties that impede the decentralization of own functions of local authorities. Those obstacles are more of subjective reasons, such as: lack of will by certain central ministries or institutions to issue their control over some functions and investments; lack of the initiative for decentralization by local authorities themselves or lack of capacities and abilities, especially in certain communes (DOBJANI E., 2007, p.211).

b) Shared functions of the commune and of the municipality include those areas and sectors where are involved both local and higher level authorities. As such shared functions are those for which the unit of local government has its part of responsibility, distinctive from the part of the responsibilities given by the central government, and that is proportionally accompanied with competences that it can exercise autonomously, for example health is a central government competence, but local government is responsible for the maintenance of the facilities of health centres. In any case the competences of the organs of local government for this sort of functions are determined by law. Shared functions include: compulsory and secondary education, the system of primary health services and protection of

public health, social assistance and poverty, public order and civil protection, and also other common functions, as determined by law.

There has been some difficulties in practice during implementation of the law “On the organization and functioning of local government”, such as defined also in the Strategic Plan of Decentralization. Those problems raised out when fulfilling the whole legal framework on exercising exclusive and shared competences, because of the dependence by the respective institutions for the implementation of legal acts for exclusive and shared functions in the fields of education, economic support and health care, the lack of funds by the responsible ministry to transfer the service of water supply, and in some cases the lack of local administrative and technical capacities to fulfil the competences of the units of local government. The Ministry of Finances, in order to incite local self-governing and access of the units of local government in the capital markets, has created a working group in collaboration with the units of local government with the aim to separate competences of municipality units for public markets, sweeping of urban zones, greening the secondary roads in the framework of the implementation of decentralization process. Meanwhile in collaboration with the Municipalities of Fier and Elbasan it has been drafted the Urban Strategic Plan of those cities in order to realise the sharing of competences and mostly its own competences for the planning of urban land and its management (The Albanian Strategy of Decentralization and Local Autonomy, 2005, p.51-57).

c) *Delegate functions of the communes and the municipalities* are regulated by art.12 of the law “On the organization and functioning of local government”; they include functions of central government or other central institutions that by law or by agreement, are determined to be realised by the units of local government in the ways and measures defined by the central government or the other central institutions. Delegate functions and competences can be compulsory or non-compulsory. As for the compulsory ones, they are determined only by law, can be done only for certain competences and in this case the responsible central institution authorises the organ of local government to exercise the function determining the procedure of execution and to control implementation. The non-compulsory delegate functions are those which are not delegated by law, but in

accordance with an agreement of collaboration between the central institutions and the units of local government. Delegation in this case can be extended also in all or in certain units of local government. Actually as delegate functions can be mentioned: distribution of economic assistance for the families in need, the activity of local government authorities regarding the service of civil state, the fulfilment of obligatory military service, etc.

The law "On the organization and functioning of local government" also regulates *the functions of region*, which according to art.13 are: a) *exclusive/own functions*, such as building and implementing regional politics and their harmonisation with national ones in regional level, and every other function defined by law; b) *delegate functions*, by central government or by one or more communes and municipalities within its territory, according to an existing agreement between them.

The budget of the local government units and their resources of financing

The budgetary system in Albania, according to art.157 of the Albanian Constitution, is composed of the state budget and the local budgets. The state budget is created by the sources collected from taxes, tariffs, other financial obligations and lawful resources, and it includes also all the state expenditures. The units of local government settle and collect local taxes and other fees defined by law. Imposts, taxes and other national and local fees decreasing or excluding certain categories of subjects and the way of their collection are determined by law, to which in such cases, according to art.155 of the Constitution, can not be given retroactive force.

During the year 2002 it has been established a legal package for the fiscal decentralization in order to ensure a wider base for the realization of local incomes and for a more effective fiscal politic. An actual structure for the realization of the decentralization reform is the Directory of Decentralization and Prefectures, which mission is to pursue and to realize the reform of fiscal decentralization for the public services in the sectors of: education, health, transport, transferring properties to the units of local government, social help to the families in need, economic local development, and to elaborate programmes

for the regional social and economic development (The Albanian Strategy of Decentralization and Local Autonomy, 2005, p.58-60).

The principles of financing of local government units, according to art.15 of the law “On the organization and functioning of local government”, are: the principle of the diversity of resources of incomes; guarantees given by law to the units of local government on having sufficient authority to create incomes in an independent way; provision of necessary funds to the units of local government by central government for the fulfilment of delegate functions and competences; the right of the units of local government to elaborate, implement and manage their own budget in compliance with the law “On elaborating and implementing the state budget in the Republic of Albania”.

The law “On the organization and functioning of local government” gives also a detailed description of the resources of financing of the units of local government in Albania. According to art.16-17 of this law, *the resources of incomes of the communes and municipalities* include incomes from its own resources and incomes from national resources. Communes and municipalities create their own resources by: local taxes and fees on movable and immovable property, transactions made on them, and on economic activities of small business; local tariffs on public services they offer, the right to use local public properties and the granting of licenses, permits and authorizations, for which they have full authority; other local taxes and fees determined by law. *The resources of financing of regions*, according to the art.18 of the same law include its own local resources and, also, resources from the distribution by national incomes. Own resources of region consist of: unconditioned transfers, including the quotas of participation of the constituent communes and municipalities; conditioned transfers for the accomplishment of delegate functions and competences from the constituent communes and the municipalities; fees and tariffs settled on region level; tariffs for the public services offered by the region itself.

Each unit of local government enjoys full authority on purposes and ways of using its own financial resources that are unconditioned transfers. Conditioned transfers that are done part of the budget of local government unit should be used only for the purpose for which they are given in compliance with the rules

appointed by central government. The tax legislation framework in regional level contains: local taxes and fees determined by the law on local tax system, and also related bylaws approved by local administration. According to article 9 of the Law nr.9632, date 30.10.2006 "On local tax system", amended, local taxes include: local tax on small business, taxes on immovable property – this tax includes the tax for buildings and the tax for agricultural land, – the tax of accommodation hotel, the tax of impact in infrastructure of new buildings, tax on the transfer of ownership right to real estate, annual registration tax of vehicles, tax for occupation of public spaces, table tax, and also temporary taxes.

Units of local government in Albania are entitled of property rights and economic rights as well (as defined in art.8 of the law "On the organization and functioning of local government"). Their financial autonomy is generally improved, because of following measures: a) real improvement of the structure of its own financial resources and decision-making capability (this can be seen by the transfer of some tariffs from national to local level, as for example the transfer of collecting "the small business income tax" from the Tax Administration to the Municipalities themselves since 2007); b) the clear determination of the right of local councils to decide the level of tariffs in compliance with the development politics and the economic social state of the unit itself (except the possibility to increase or decrease the level of the tariffs in proportion to the legal level, the local councils have also the right not to apply those tariffs or to exclude certain subjects, even temporally); c) it has been adopted a legal package concerning fiscal decentralization, especially there has been taken many measures to increase financial autonomy of local government units. There's also growth of the budget of local governments, especially the part of internal resources, seen in proportion to the incomes transferred by the central government and the conditioned budget. Otherwise the empirical manner on distributing funds of the state budget, last years has been applied a sort of formula to distribute incomes, in base of some sort of indexes that directly affect in the rapport of functions that local government units exercise in the community. Those changes have been realized through widening of local tariffs system, their improvement, and increase of the range of engagement of the units of local government with their financial

problems ("Main principles of the organization and functioning of local government", 2004, p.20-22). In base of some analysis done in Shkodra Region it's shown that the indicators of democracy are in favour of small communes, but the indicators of efficiency mainly favour large ones. Experiences related to territorial reorganization and debates for merging or dividing communes show that there is no recipe to be followed or applied in each situation, but it will help the capacity building of local units and it may be seen as an alternative strategy for the growth of efficiency of decentralization. In the case of merging of Bushat Commune with Barbullush Commune – based on law no.9123, date 07.02.2003, Bushat and Barbullush Communes (within territorial administrative division of Shkodra Region and population respectively of 17.400 and 5.100 inhabitants) were merged in one unique unit called the Commune of Bushat, with its headquarters in Bushat village – there was: a quality increase in the commune administration, investments increase; per capita incomes increase; decrease of Barbullush administrative expenses, hence more efficiency; meaningful improvements of the quality and quantity of public services (HILA T., SOKOLI J., paper in "Capacity building through research partnership – a case study on decentralization and governance in northern Albania", 2007, p.28). Also by analyzing the 2006-2010th fiscal packages of Shkodra Municipality, we can see that during these years there are no changes for the rate of local taxes, meanwhile there's a little tendency in increasing the fees. The increase of fees every year could be justified with the higher expenses in offering the service, for which the fee is paid. It should also be mentioned here the difficulties of the municipality to collect its own incomes, related to certain fees such as: cleaning fee, lighting fee, etc., because of the low legal awareness of the community to pay these fees. Still, financial autonomy of local government units remains big challenge for the local authorities and central ones in Albania.

Conclusion

- Organization and functioning of the units of local government in Albania is done in conformity with the principles stated in the Albanian Constitution, the European Charter on Local Self Government, and the Albanian law “On the organization and functioning of local government”.
- In practice the role of region is not yet effectively enacted, because its functions are related to the awareness of communes and municipalities to delegate functions to it, which awareness is still low and they don't yet understand the effectiveness of sharing and delegating competences, especially in the future European integration of Albania.
- There has been some difficulties in practice during implementation of the law “On the organization and functioning of local government” raised out when fulfilling the whole legal framework on exercising exclusive and shared competences, because of the dependence by the respective institutions for the implementation of legal acts for exclusive and shared functions in the fields of education, economic support and health care, and by lack of funds of the responsible ministry to transfer the service of water supply.
- Units of local government in Albania enjoy financial autonomy to the extent that they are allowed to set several local taxes and fees.

Generally indicators of democracy are in favour of small communes, but indicators of efficiency mainly favour large ones. Experiences related to territorial reorganization and debates for merging or dividing communes show that there is no recipe to be followed or applied in each situation, but it will help the capacity building of local units and it may be seen as an alternative strategy for the growth of efficiency of decentralization.

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E-Commerce application and business profits

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Abstract

This paper examines the main characteristics and bias behind the necessity of e-commerce in Albania, the socio-economic background of Albanian business and their readiness to support this new way of marketing. A survey and a subsequent analysis was conducted to examine organizations' current practice on web-based information systems requirement. A typical e-commerce application consists of a network of texts, graphics, images, and so on, each of which should have one or more definite purposes that are part of the system development strategy. To determine important features that contribute to the success of the requirement analysis, it is important to find a theoretical relationship between e-commerce features and the development of e-commerce applications. Efforts were made to give answer to the question: "Can e-commerce be used by businesses in Albania? Are businesses in Albania ready and convenient for the advantages of e-commerce use? In order to examine the e-commerce development and the actual situation within Albanian territory the method of questionnaire was applied in some business organizations selected from the main cities –Tirana, Shkodra , Durres. Statistical methods help to analyze and determine the conclusions .The conclusion is that the trend of the Albanian business is to get all benefits out of e-commerce.

Introduction

This study addresses the Albanian businesses and aims at presenting their state of affairs and providing them with on-line samples related to the establishment of their relationship with clients by offering them the possibility of designing programs that ensure client sustainability through a situation where they listen to the clients and become “the best” for them. Similarly, clients’ willingness to respond to these programs through the improvement of their attitude towards on-line buying, which is an outcome of their awareness of business and client mutual profits, is significant. In view of the current economic development and its potential tendencies in Albania, the presentation of an issue that has become a priority for the development of both consolidated businesses and those in development, has been considered of special interest. E-commerce must become a reality. It is being regarded as a source for the creation of competitive advantages of a company.

E-commerce and the Albanian businesses

The World Trade Organization defines e-commerce as, "e-commerce is the production, distribution, marketing, sales or delivery of goods and services by electronic means"¹. On-line marketing in Albania is a novice². Originally, it was applied as a way of attracting foreigners to the Albanian market. Another novelty is that since 2010, the banks that operate in Albania have had the access to conduct transactions on-line. About 15 banks do have this access³. On-line market analyses reveal that the passwords related to Albania mainly pinpoint “Travel Albania” and “Accommodation Albania”, hinting to travel to and hotel accommodation in Albania. The prime reason is that the offer of the Albanian market erected upon imports mainly is of no special interests. Recently, many manufacturers have improved their image in the world network of information, whereas most Albanian businessmen, irrespective of the fact that they have company web sites, use free Internet Yahoo or Hotmail addresses that greatly

¹ <http://www.hg.org/article.asp?id=6517>

² <http://www.forumistet.com/>

³ Fullani.A Governor of the Bank of Albania. Meeting in Shkodra, 20 January 2011.

lead to the loss of their credibility⁴. However, thanks to the intensive meeting with Western European partners or clients, they have come to realize the special importance of the Internet. This is the reason why the number of those who are trying to have company websites to offer their products has been ever increasing. However, being on the net with the company or product name does not suffice. Viewership does not depend on the presence but on the promotion degree. On-line marketing and promotion of e-commerce application help out in this aspect. Electronic commerce is being developed in Albania and the Albanian companies are constantly becoming aware of this activity. Nevertheless, only few companies are employing e-commerce to conduct their national or international transactions. The fact that Albanian businesses are continually becoming aware of the profit from e-commerce is of special importance. This can be clearly seen in the analysis below.

Analysis of the questionnaires sent to businesses

Businesses were delivered 200 questionnaires. They were sent to the leading personnel, namely, managers or administrators. It was administered through both emails and direct interviews. The number of the answered questionnaires was 158, which constitutes 79% of the total.

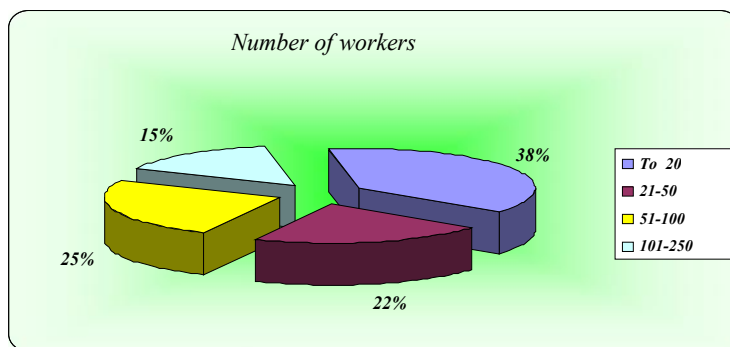
Hypothesis: The adoption of the e-commerce by the business brings forth profits in its activity. It is a competing advantage that makes them the best for their clients. The profits of the business by using the e-commerce can be viewed in six main directions: improvement, growth, updating, flexibility, speed, and cost reduction.

Demographic Variables

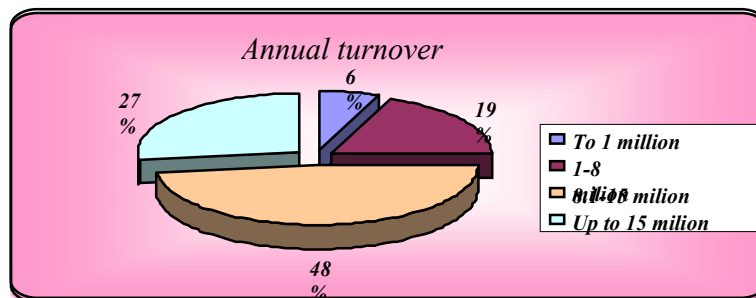
To have a most realistic study, businesses that constitute the focus of the study are of various types and sizes, and include production, service, and trading in the gamut of their activities. With regards to the business type, it results that 43% of businesses are manufacturing entities, 32% trading entities, and 25% service entities. Based on the graph, businesses that use computers and the

⁴ <http://www.forumistet.com/>

internet most are manufacturing and service entities, those that use them least are the trading ones. The graphs below provide information on the size of the businesses under observation. As regards the number of the employees, it results that businesses that have 20 workers, that is 38% of the total, are ranked first, those that have 51-100 workers or about 25% of the total number of the workers occupy second place. It goes without saying that in view of space those that have 101-250 workers are ranked last. This is typical for commerce in Albania where businesses that have a big number of workers are not numerous.

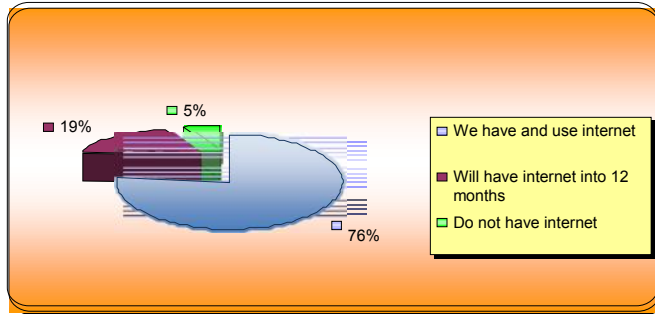


Graph 1 : Number of workers in businesses



Graph 2. Business annual turnover

Based on the graph above, opinion on the business size can be given. The graph that evidences the questionnaire results, evidently show that big and medium businesses are ranked first, they comprise 75% of the interviewed. The least interviewed are small businesses that constitute about 25% of the interviewers. It is the business size that may be decisive in the adoption of the e-commerce, because they are the very ones that have the professional and financial potential to do so. Consequently, they are more inclined towards the presentation of their businesses and the designing of personalized websites.



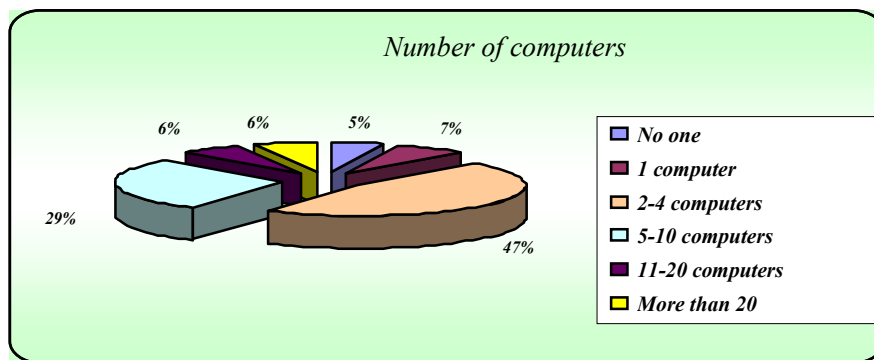
Graph 3. Internet connection in business

Managers are so far-sighted and erudite that they can manage to reach conclusions and exact logical evaluation. What hinders them from the wide scale Internet application (5%) is the absence of monetary means or fear to undertake risks. Why are these facts mentioned?

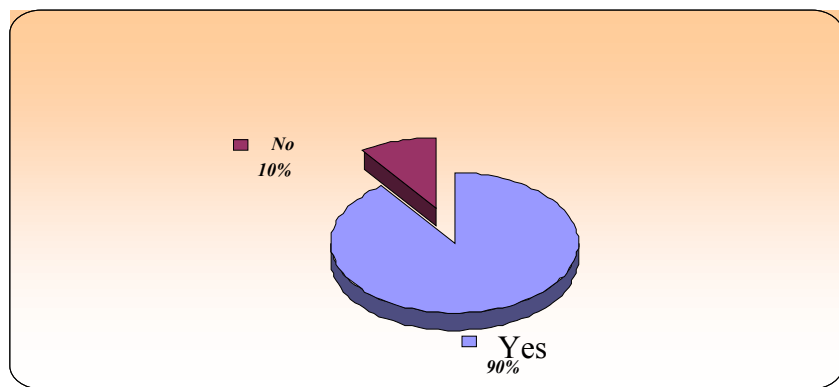
The results presented in the graph above are very positive because they reflect the fact that 76% of the interviewed have access to the internet. Based on the questionnaire, it is evident that banks, tourist agencies, hotels and some of the manufacturing businesses use the internet regularly.

The fact that 19 % of the people interviewed are very optimistic about the internet use should not be neglected (they intend to have internet connection within a period of 12 months). They have heard about the amazing uses of the Internet and the wonders firms abroad are making through their on-line activity and as such, they are aware of its importance and optimistic about its application.

Whether businesses own computers as an indispensable prerequisite for internet use and e-commerce adoption, a direct question was included in the questionnaire. The resulted answer was that only 5% of the interviewed businesses have no computers.



Graph 4. Number of computers that have internet access in businesses

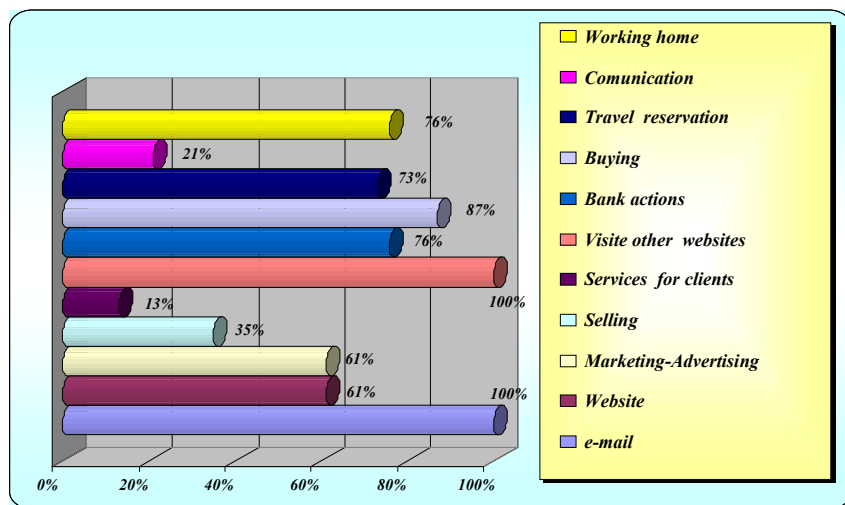


Graph 5. Do you have skilled personnel to use the Internet and e-commerce?

Concerning the main computer users in firms, an expected result has been obtained: economists are ranked the first among computer users. Those ranked second are the managers, secretaries and last ranked users are workers. The result displayed in the graph above is satisfactory. 90% of the interviewed state that their personnel is skilled in computer and e-commerce use, however, this answer is slightly fictitious because the trend among businesses is not to admit the fact of computer use ignorance.

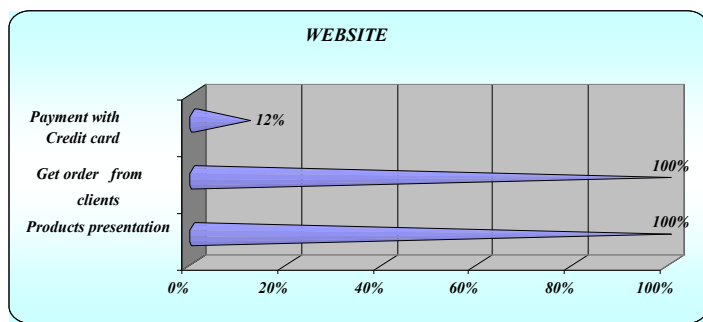
With reference to the possible internet applications, the graph below displays in percentage the reasons why internet is used in the interviewed businesses. As stated below, all (100%) use the internet to communicate fast and free via email. The email communication takes place both among the company personnel and between the company personnel and persons or units out of the company. Besides, they use the internet to visits the websites of the companies which they are interested to get information from on the latest news, to establish business ties and to buy and sell on-line. About 61% of the

interviewed use the internet to introduce the website of their company, which they employ to carry out marketing by advertising and opening new perspective to the online trading of company products. This practice is quite new since about 35% of businesses have begun to sell their products online, whereas only 87% of the businesses buy on line to meet the needs of their business. These experiences have provided them with a positive perspective, which has been displayed in the analysis of the profits made by the use of e-commerce below.



Graph 6. Cases of the internet application

The graph below displays data exclusively for the businesses that have a personal website. It also asserts what they use it for. Out of the 158 interviewed businesses, about 96 have their personal website and entirely use it to advertise their products and get orders from clients. However, only 12 % of the clients pay by credit cards and this corresponds to 11 businesses. This is not a big figure, however, it constitutes a significant data that shows that this experience is actual in Albania too and comprises a good representation of the sample interviewed. Thus, Albanian businesses use e-commerce.



Graph 7. Use of company website

To prove the hypothesis above, a table that raises the issue of the estimation of the profits made by the application of e-commerce has been included in the questionnaire. The table includes 12 pondered affirmations which are the result of the adoption of e-commerce. To rank the results, the interviewed were asked to apply the Likert scale (1-I don't know, 2-no profits, 3- some profit, 4-many profits) concerning the degree of the acceptance or the refusal of the 12 affirmations. To do this, the method of factor analysis by using SPSS approach with the aim of complying with the main objectives of the study based on the hypothesis above has been used. On account of this analysis, 6 main components that reduce the complexity of the data by using the 6 components instead of the 12 original variables have been estimated. Initially, we notice whether the data meet the determined criteria to realize the scientific analysis. Thus the first criterion, the Kaiser-Meyer-Olkin criterion (that measures the adaptability of the sample in order that the analysis can be realized) should be as close as possible to 1, the closer it is to 1, the more appropriate are the data for factor analysis. The value 0.873 that has been displayed in the table below is considered to be excellent to realize the analysis of the factors with these data. Furthermore, Barlett's test of sphericity of 0 significance (which should be smaller than 0.05) has been considered as excellent and even valid to perform factor analysis.

N	Valid	158
	Missing	0

Tab. 1 Number of the interviewed businesses

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.		0.873
Bartlett's Test of Sphericity	Approx. Chi-Square	3266.116
	df	66
	Sig.	.000

Tab. 2 KMO and Bartlett's Test

Further on, the analysis of the main components through the rotation matrix Varimax with Kaiser Normalization has been used. This method minimizes the number of variables which have a big load for each given factor. Through this analysis, the six main components which reduce the complexity of the data by using these 6 variables instead of the 12 original ones have been evaluated.

	Components					
	1	2	3	4	5	6
Improvement of company profile	.566	.303	.212	.198	.260	.645
Sale increase	.157	.817	.253	.320	.245	.215
Improvement of the relations with clients	.099	.322	.174	.250	.860	.158
Improvement of the relations with suppliers	.193	.615	.182	-.046	.293	.657
Process speed-up e.g. transactions, recruitment ,marketing	.495	.270	.202	.148	.766	.130
Cost Reduction	.376	.311	.174	.271	.230	.776
Improvement of internal communication	.477	.393	.398	.442	-.048	.450
Product, service and market upgrading	.141	.196	.149	.237	.288	.871
Competitors upgrading	.293	.272	.857	.179	.166	.172
Flexibility in activity	.465	.336	.379	.526	.278	.328
Facility in activity	.212	.390	.327	.378	.694	.167
Increase of client number	.355	.192	.336	.482	.674	.160

Tab. 3 Analysis of the main components

The method of Rotation : Varimax me Kaiser Normalization.

The table below displays total Variation Explanation. It can be noticed that the total percentage of the explained variation is 97.039 % (the summation value of the factor 6). This means that these six components explain about 97% of the variation in the 12 original independent variations. As factors are named in conformity with the hypothesis of this study, then the result obtained proves this hypothesis, and it can be said that it is true.

Component	Extract of the sum of the load squares			Rotation of the sum of the load squares		
			%			%
	Total	% e Variance	Cummulative	Total	% e Variance	Cummulative
1 Improvement	9.242	77.017	77.017	3.515	29.294	29.294
2 Increase	.987	8.226	85.243	3.166	26.386	55.681
3 Upgrade	.582	4.850	90.093	1.442	12.016	67.696
4 Flexibility	.367	3.054	93.147	1.399	11.659	79.355
5 Speed	.249	2.077	95.224	1.135	9.461	88.816
6 Reduction	.218	1.815	97.039	.987	8.224	97.039

Tab. 4 Explanation of total variances

Conclusion

Based on the Albanian reality and the issues related to Albanian businesses, it can be pointed out that:

- Most Albanian businesses own one or more computers but the staff is not well-trained and modestly makes use of them.
- The main computer users are economists and the most used computer programs are Word and Excel, this is to reduce computer function to that of the calculator or writing machine.
- Albanian businessmen are interested in the information about IS, however, this information is insufficient and does not meet their needs.
- If information systems are effectively used by a business organization, then their costs will be negligible versus the profits it makes.
- Nowadays, in the frame of the globalization, the success of the economy and different organizations depends on the IT and the internet use.
- It seems that the main reason is not the lack of the informational culture, though this may be a potential reason. What really worries Albanians related to having internet connection at home is the rate of internet service

with the family income. Thus, the culture of internet use is conditioned by the simple calculation of how much to spend to live on.

- Each business should design a personalized website. The users could “virtually” be in the organization environments, whereas other businesses can establish rapports through links.
- By pointing out the problems evidenced in the questionnaire, constant training and qualification of the staff and organizations are recommended.
- Creating computer networks is a must not only for real-time information circulation but also for data access on the part of different users.
- Creating data bases and data management systems constitutes the most important aspect of the issue because it facilitates data access, data manipulation and data modification or saving. Data bases and data management systems ensure information safety and privacy.
- Establishing contacts with clients via e-mail, phone calls and programmed appointments is also recommended
- Businesses should making deals of mutual interests with the fixed phone Albtelecom company to facilitate the contact with clients through the “green number”.
- To avoid worry about the use of safety credit cards online and to ensure consumer education, product sites may feel the need to put together efforts of the industry through internet users and issuers of credit cards.
- The websites should be clear to understand and easy to use by different age-groups with different education levels
- Chambers of Commerce should open new horizons to the manufacturing firms in order that they could successfully use the internet. Besides, they should explain their members the importance of e-commerce.

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International aspects of human trafficking – Especially trafficking with minors

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Abstract

Liberalization of understanding and relations, the liberation of sexuality from the constraints of primitivism and tradition, leads to rapid growth of prostitution as a socio-pathological phenomenon, which necessarily stimulates the emergence of crime - trafficking with human beings. Particularly worrying is the emergence of a new dimension of human trafficking - trafficking in minors. Children, in addition to women, in international documents, often receive the status of "specially protected persons" which, following the direction in which this crime is developing is more than justified. We can freely say that trafficking in minors is industry in development.

Introduction

Trafficking with humans is a problem with international dimensions. Fight for the suppression of this crime can not be located only within one state. It must reflect, at least in a neighboring states of a country, and beyond. Exactly for these reasons, it is necessary alignment of strategies in terms of prevention and suppression, in terms of laws and, literally, alignment for the whole phenomenon of human trafficking - what it is and how it should be treated. From here is today's interest of the international community, treating it such trafficking as a serious form of organized crime, to be criminally punishable and to establish the only way to prevent, suppress and punish this kind of a crime in all countries. To this end, developed a multitude of documents that form unified legal framework for

efficient and organized fight. "The leading role in preventing this phenomenon has taken the international community, promoting institutions and leaders: in terms of legislation - the United Nations (UN), Council of Europe (CoE), Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM), Agency for International Development (USAID), International Centre for Migration Policy Development (ICMPD) and other; political and security: NATO, the OSCE, the European Union (EU) , Stability Pact, the International Criminal Investigations Program (ICITAP), the Regional Center for combating trans-border crime Initiative for Cooperation in South East Europe (SECI) and other; economic: the EU, the World Trade Organization (WTO) and others."⁵ Alongside them there are regional centers through which are implement strategies and programs to combat human trafficking. However, the enormous role in the fight against trafficking of non-governmental organizations lead to a need for their international networking to achieve better results in the area of social protection and reintegrativnite programs.

1. International documents concerning prevention of human trafficking and trafficking with minors

Internationally, there is great interest in the protection of women, as a specific victim of this crime. Firstly, documents that are brought in terms for fighting human trafficking are shaping the crime like trafficking exclusively with women. In 1904, by countries that later constitutes the League of Nations was concluded International Agreement for the Suppression of the White Slave Traffic ⁶, who (according to Article 1 of the Agreement) applies to women and girls who are transferred abroad for immoral reasons⁷. Six years later, in May 1910, is adopted

⁵ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject:10 years of application of the Criminal Code of the Republic of Macedonia, Ohrid, 2006, page 375;

⁶ International Agreement for the Suppression of the White Slave Traffic, League of Nations Treaty Series, vol. I, No. 11, p. 83,Paris, 1904, - <http://www1.umn.edu/humanrts/instree/whiteslavetraffic1904.html>;

⁷ For reasons of distinguish women and girls,we can conclude that this contract is a kind of conception of what later will be a differentiation of human trafficking (adults) and trafficking with minors;

International Convention for the Suppression of the White Slave Traffic⁸. As stated in the Convention itself, it is brought because of desire for taking steps to more effective suppression of trafficking known as the "White Slave Traffic"⁹. These two international acts later fall under the so-called *Treaty Series*, or group of contracts within the League of Nations, relating to this matter. In 1921 the League of Nations adopted the *Convention for the Suppression of Trafficking in Women and Children*¹⁰. Through these international acts can be seen growing need to protect all minors, and giving them special treatment different from the one of adults victims, and the need of special treatment of people who appear as traders with minors. In 1933 the League of Nations brought the *International Convention for the Suppression of the Traffic in Women of Full Age*¹¹, and in 1947 is adopted a Protocol amending the Convention for the Suppression of Trafficking in Women and Children from 1921, and for the Convention for the Suppression of human adult women in 1933, with which the current functions and powers in this area are transferred to the United Nations.

In 1949 was adopted Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others¹² by United Nations, which makes a unification of the previously adopted documents of the League of Nations in this direction. These are the most important documents adopted at the international level to combat trafficking in persons (women and children) performed for sexual exploitation.

From the documents that were adopted in order to prevent trafficking and enslavement of people, in general, more significant are: the *Convention against slavery*, adopted in 1926, which belongs to the group agreements brought in this area from the United Nations, *Supplementary Convention on the abolition of*

⁸ International Convention for the Suppression of the "White Slave Traffic", League of Nations Treaty Series, vol. VIII, p. 278, Paris, 1910, - <http://www1.umn.edu/humanrts/instree/whiteslavetraffic1910.html>;

⁹ In this Convention is already made the above mentioned distinction of adult and minor victims;

¹⁰ International Convention for the Suppression of the Traffic in Women and Children, League of Nations, 1921, - <http://www.vilp.de/Enpdf/e158.pdf>;

¹¹ International Convention for the Suppression of the Traffic in Women of Full Age, League of Nations, 1933, - <http://www1.umn.edu/humanrts/instree/women-traffic.html>;

¹² Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, United Nations, 1949 - <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/051/36/IMG/NR005136.pdf?OpenElement>

slavery, slave trade and institutions and practices similar to slavery from 1956, the *Convention on the abolition of forced labor* from 1957, the *International Pact of Civil and Political Rights* from 1966, and the significant *Convention against Transnational Organized Crime*, from 2000 adopted by United Nations. The creation of a new international legal framework to prevent trafficking begins precisely with the adoption of this Convention, and with very important - *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. "The protocol is actually a way of emphasizing the dangers of trafficking with humans, but also stressing this crime as an extremely dangerous form of organized crime that is surged."¹³

1.1 International documents concerning prevention of trafficking in minors

As the oldest European political organization, the Council of Europe has a duty to protect fundamental human rights, to ensure realization of principles - the rule of law, democracy and freedom. However, the key role that this organization has is in the area of protecting children from trafficking with them and in efforts to combat this crime.

On 6th October 1987, the 15th Session of the Parliamentary Assembly adopted Recommendation on the traffic in children and other forms of child exploitation. Council of Europe takes this recommendation pulled from the fact that society is obliged to follow the best interests of children and to protect, and due to the daunting international trade with them for prostitution, pornography, slavery and illegal adoption. The recommendation states that the Council, as necessary, believes that Member States should sign and ratify the Convention on the prohibition of trafficking and exploitation of prostitution of others, the European Convention for the adoption of children, the Hague Convention on jurisdiction, applicable law and recognition of decrees relating to adoption, the Convention no. 138 of the ILO about the minimum age for employment and European Social Charter with particular reference to Article 7 on the right to protection of children and adolescents. Also, countries are urged to support the

¹³ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject, page 375;

proposal - declarations of the General Assembly of the United Nations about social and legal principles concerning the protection and welfare of children, by recommending, or calling for adoption of children on national and international level. It is recommended to improve protective measures and practices regarding international adoption of children in regard that adoption does not result in improper financial gain for those who are involved in it, international adoptions to be conducted by competent agencies and competent authorities, for such purpose to be applied safety measures and standards equivalent to those that exist at the national level, to take internationally aligned movement for unaccompanied minors. It encourages the idea of conducting a campaign to inform the public about the problem of child trafficking and exploitation of child labor, to inform teachers and young people on child rights and to include the study of human rights in curricula at all levels. With the recommendation it is suggested about the need for harmonization of the laws of Member States in the fight against child pornography and the need to enact strict laws to combat it. And politics is encouraged to discover the needs of street children and abandoned children, to condemn any politic of commercial and industrial competition based on exploitation of child labor and to ensure that all activities undertaken, at national and international level, will be of positive significance for all children worldwide. It is recommended to improve public services that are working for children and their protection.

This recommendation is only one part of the activities that, at the plan of child care, has undertaken the Council of Europe as a political organization.

In this way is the *Recommendation concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young*, by the Committee of Ministers to Member States, adopted on 9th September 1991. This recommendation was made as a result of the realization that well-being of children and young people is fundamental to society, that sexual exploitation of them for profit, in the form of pornography, prostitution and trafficking, has reached new and alarming dimension of national and international level, that there is a real need for Member States of the Council of Europe to harmonize their legislation in this area so that the actions which are taken at national and

international level to be more coordinated and effective, having, at the same time in regard the above mentioned recommendation of the Parliamentary Assembly. The recommendation includes four sets of measures which the Committee believes should be implemented in national legislations of member states: *general measures, measures relating to child pornography, measures relating to prostitution of children and youth and measures relating to trafficking in children and adolescence.*

This last group of measures, related with trafficking in children and adolescence, includes recommendation for supervision of the activities of arts agencies, agencies for marriage and adoption, in order to control the movement of children within countries and between them and disrupting the possibility that they could be fooled into prostitution and other forms of sexual exploitation. It is also recommended to increase supervision by border police and immigration authorities, in order to ensure that children's travel abroad, especially those who are unaccompanied by their parents or guardians, is not related to trafficking. Also, in this direction is recommended that there has to be some institutions establishing (and it has to be a support giving to the already existing ones) for protection and and giving help to the victims of trafficking in children and adolescence.

Among the others, with their recommendation to the Member States it is recommended a better cooperation and to exchange information and data through Interpol in order to easily identify and persecute those who are involved in the trafficking of children and young people, especially the organizers of this trade.

For the protection of trade in children for the purpose of exploitation of child labor, the International Labour Organization in 1999 adopted the *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, or shortly known as the Convention on the Worst Forms of Child Labour. By ratifying this Convention, States Parties undertake to take immediate action to eliminate the worst forms of child labor exploitation and with the ratification of this Convention by member states, this Convention enjoy the status of the fastest ratified convention in ILO since 1919.

In The Convention, in the part where is listed of what exactly are the worst forms of child labor, among other things, is stated "all forms of slavery and practices similar to slavery, such as sale and trafficking of children."¹⁴ ILO in 1999, in this regard, adopted the Recommendation for the Worst Forms of Child Labour.

However, most important international - legal instrument adopted in order to combat human trafficking, more specifically - trafficking in children is certainly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted by the United Nations in 2000, as a complement to the Convention against Transnational Organized Crime.

1.2 About the Palermo Protocol for Prevention, Suppression and Punishment Trafficking in Persons, Especially Women and Children

This Protocol was adopted in order to highlight the need for a comprehensive international approach in combating the trafficking in persons, especially women and children in countries of origin, transit and destination, which should include measures to prevent trafficking, punish offenders and helping and protecting the victims, along with protecting the already existing and recognized international human rights. In the introductory part of the Protocol is emphasized the importance of it at the international scene, because, until the moment of its adopting, although there was a full range of international instruments that treated the trafficking with human and which contain measures and rules to combat such trafficking, there is not an universal instrument that covers all aspects of trafficking.

The protocol is consist of four parts: general provisions, protection of victims of trafficking in persons, prevention, cooperation and other measures and finalprovisions.

The general provisions contain 5 articles that are associated with the correlation that this Protocol has with the primary Convention against Transnational Organized Crime, the importance of Protocol for Convention's recharge and interpretation. Article 2 of Protocol explains the purposes for which it is adopted and that needs to be realized with it: preventing and combating

¹⁴ Article 3, point A of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

trafficking in persons, with particular attention to women and children as a special category of victims, protecting and assisting victims of such trafficking, with respect for their basic human rights, promoting cooperation between Member States in order to realize the goals and so on. These goals that are set by the States Parties with the very signing of the Protocol, and all measures that are bound to take for their implementation, clearly indicating the vigilance of the international community to the problem of trafficking in persons in general, and the gradation of the problem when as victims are found women and children. Article 3 refers to the explanation of terms used in the Protocol. Here is a definition of what is actually trafficking with humans. According to Article 3, paragraph A, of the Protocol:” Human trafficking means recruitment, transportation, transfer, harboring or accepting of persons, with threat or use of force and other forms of coercion, or abduction, fraud, deception or the use of power or a state of powerlessness or the giving or receiving money or benefits to achieve the consent of a person having control over another person for purposes of exploitation. Exploitation, at least, as a minimum covers the exploitation for prostitution of others or other forms of sexual exploitation, forced labor or forced services, slavery or practices similar to slavery, servitude or the removal of organs.”

According to the Protocol it is considered that the consent of the victim in any of the above cases is irrelevant. Also the crime, according the Protocol, includes the situations of voluntary prostitution, which, through the application of various measures for establishing the dependence of prostitutes, is turning into forced prostitution or slavery relationship. No impact of voluntary prostitution, but when there are the elements of threat, coercion, abuse, etc. it is transformed into compulsion. About the minor as a victim, according to the Protocol it is recorded under the term "child" and it includes persons under eighteen years old¹⁵. About the children it is considered that any of their recruitment, transportation, transfer, harboring or acceptance for the purpose of exploitation shall be considered as trafficking with them, even in cases when they were not done in some of the

¹⁵ In the Convention for the Suppression of Trafficking in Women and Children from 1921 border line that separates juveniles from adult victims was the age of 21 years old, this border is placed below;

ways mentioned in point A of Article 3 of the Protocol . The Protocol establishes as punishable the attempts to commit this crime and complicity, organization or ordering to another to commit the same. In hhe general provisions are articles about the scope of application of the Protocol and about criminalization.

The second part, the part about protection of the victims of trafficking in persons, contains provisions on assistance and protection of victims, in terms of preserving their privacy and identity, ensuring their physical, medical, social assistance and, for the purpose, achieving cooperation for the countries with NGOs, then the employment of victims, providing them appropriate education and so on. Assistance and protection of victims expressed by providing privacy, physical and psychological care is especially important for children victims of this crime. There are provisions about the status of victims of the signatory - countries, about conditions and manner of their return to their motherland and so on. "The protection of victims involves establishing a legitimate procedure to avoid immediate deportation and their current care in facilities that have the necessary conditions for residence. In them victims can get advice and information about their rights, medical, legal, social, material and other help, in order to be safely repatriated to their country."¹⁶

The third part is about prevention, cooperation and other measures that need to be taken by States Parties. According to the Protocol, prevention should be accomplished by researches that need to be done into the States Parties, public informing, informing the officials and the victims also, mass media activities, cooperation with NGOs (that also undertakes activities in this field), bilateral and multilateral cooperation between states, adoption of strong legislation and so on. In general, the preventive politic includes comprehensive preventive politic and programs, preventing the re-victimization, research, information campaigns, social and economic initiatives and cooperation with civil society. It requires strengthening of border control and cooperation between states when a person crosses the border without travel documents or using passports of someone else (a serious sign that is a trafficker or a victim of trafficking), to control the documents and to check their legitimacy and validity.

¹⁶ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject, page 377;

The final provisions contains articles that are regarding the manner of resolving disputes made by interpretation and application of the Protocol among its signatories, about ratification, signature, acceptance, approval and accession to the Protocol, its entry into force, a way of supplement, cancellation of it and articles about the languages and about UN Secretary General.

This Protocol recognizes that trafficking is a complex matter, on which it should be responded with efficient and effective measures. It also provides a new approach to human trafficking issues, defines the concept as complex and multifaceted, it combine traditional methods of crime control, of initiate an investigation and punishment of offenders and of measures to protect trafficked persons .

Conclusion

In order to combat the trafficking of minors and trafficking in adult victims, there is a need for the proper function of the mechanism of target institutions and figures. The amendment of legislation in the states is just the beginning to the formation of the prerequisites for combating trafficking in human's destinies. The harmonization of legislation of each country with international laws, means that the states are closer to more developed countries in terms of willingness to combat trafficking with humans. The connection between the government and NGO sector in this struggle and alignment of their policies is also extremely important factor.

States must act to build a comprehensive framework aimed at preventing victimization and re - victimization, at protecting those who have suffered from the crime and prosecuting the criminals. They must act to combat the contributing factors, striving to provide for their citizens in ways that diminish vulnerability to trafficking and to develop alternatives to the exploitation that is at times inherent in the demand for cheap labour and services. They must be vigilant in enforcing laws and monitoring activities so as to minimize the profits to be made from trafficking in persons. There also needs to be an aligned fight among the countries against this crime, it is the only way to fight this kind of a international organized crime.

In this regard, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children - Anti trafficking Protocol - by 2000, at the international level, was the first one that reached a common definition that applies to this crime. In this protocol, human trafficking is viewed as a contemporary form of slavery which includes many activities such as recruitment, transportation, transfer, harboring and receipt of persons, while they use a variety of means of coercion - threats, force, kidnapping, fraud, deception, use of power or a state of powerlessness and so on., for diverse purposes (prostitution, sexual exploitation, forced labor or services, slavery, servitude, removal of organs etc.). Having the common definition is the first and the crucial step in join forces of countries all over the world. It is a basic condition for starting and running a serious fight against this crime. On its element of organization it must be responded with even grater and bigger organization and compactness of all participants in this struggle. Only thus could rise above the criminal minds.

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Terminology in Translation

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I.

There are people who believe that skill in translation cannot be learned and, especially, cannot be taught. Behind this attitude is the assumption that some people are born with a gift of being good translators or interpreters, whereas others simply do not have the knack; in other words, skill in translation is a talent: either you've got it or you haven't.

Furthermore, theoretically we are used to come across terms such as Source text (ST) & Target text (TT). So, with these terms in mind, the translation process can be broken down into two types of activity: understanding a ST and formulating a TT. These two types of process do not occur successively, but simultaneously; in fact, one may not even realize that one has imperfectly understood the ST until one comes up against a problem in formulating or evaluating a TT. In such a case, one may need to go back to square one, so as to reinterpret and reconstruct the ST in the light of one's new understanding of it. In this way, ST interpretation and TT formulation go hand in hand. So for the purposes of discussion, it is useful to think of them as different, mutually separable, processes.

Translation equivalence is defined as a measure of semantic similarity between ST and TT.

If we compare a number of TTs with their STs we shall discover that the degree of semantic similarity between the two texts involved in the translating process may vary. In other words the equivalence between ST and TT may be based on the reproduction of different parts of the ST contents. Accordingly, several types of translation equivalence can be distinguished.

Let us first of all single out translations in which the degree of semantic similarity with ST seems to be the lowest. This type of equivalence can be illustrated by the following examples (cited from the published translations):

- (1) *Maybe there is some chemistry between us that doesn't mix.* - *Midis nesh nuk ka dashuri që humbet.*
- (2) *That's a pretty thing to say.* – *Tingëllon bukur !*

Here we cannot discover any common seems or invariant structures in the original and its translation. It is obvious the absence of logical link between the two messages which could lead to the conclusion that they are “about the same thing”, that they describe one and the same situation. It is still evident that the two sentences have something in common as to their meaning. This common part of their contents is obviously of great importance, since it is enough to ensure an adequate communication.

It comprises the information which must be preserved by all means even though the greater part of the contents of the original is lost in the translation.

In plain English, the translation does not convey either “what the original text is about”, or what is said in it” or “how it is said”, but only “what it is said for”, i.e. what the Source meant, what the aim of the message is.

The second group of translations can be illustrated by the following examples:

- *He answered the telephone.* – *Ai u pergjigj ne telefon.*
- *You see one bear, you have seen them all.* – *Nëse shikon një ari, zëre se i ke parë të gjithë.*

This group of examples is similar to the first one, as the equivalence of translations here does not involve any parallelism of lexical or structural units. Most of the words or syntactical structures of the original have no direct correspondences in the translation. At the same time it is obvious that there is a greater proximity of contents than in the preceding group.

Consider, for instance, the translations:

(1) *Maybe there is some chemistry between us that doesn't mix. – Midis nesh
nuk ka dashuri që humbet.*

(2) *He answered the telephone. –Ai u përgjigj në telefon.*

In (1) the things referred to are different, so that there is hardly any logical connection between the two statements. We can draw identical conclusions about the speaker's sentiments: there is no love lost between him and another person.

In (2) the incomparable language units in the original and in the translation describe, in fact, the same action, refer to identical reality, as a telephone call cannot be answered unless one picks up the receiver.

Both texts give different information about the same, or, as one sometimes says, they express the same idea "using different words". It is the type of equivalence that can be well explained in terms of the situational theory. We may presume that such phrases describe identical situations but each is presented in a different way. Since in each of the two texts the situation is described in a different way, the common feature is not the method of description but the reference to the situation, the possibility of identifying the situation, no matter how it is described in the text.

In the next group of translations the part of the contents which is to be retained is still larger. This type of equivalence can be exemplified as follows:

A. *Scrubbing makes me bad-tempered. – Pastrimi më ngre nervat (më acaron nervat).*

B. *London saw a cold winter last year.- Vitin e shkuar bëri ftohtë në dimër në Londër.*

C. *You are not serious? – Nuk e ke seriozisht?*

The translation contains the same general notions as the original. This means that the translation is a semantic paraphrase of the original. We should consider the first of the examples cited. Both in the translation and in the original the situation is described as a “cause-effect” event with a different pattern of identical semes.

The use of the identical notions in the two texts means that the basic structure of the messages they convey remains intact. Here it indicates “what is said in the original”, i.e. what aspect of the described situation is mentioned in the communication.

Another group of translations can be illustrated by the following samples:

1. *He was never tired of old songs – Ai nuk u lodh kurrë nga këngët e vjetra.*
2. *I don't see that I need to convince you. – Nuk e shikoj të arsyeshme të të bind.*
3. *He was standing with his arms crossed and his bare head bent. – Ai po qëndronte me krahëmbledhur dhe me kokën e tullace (të qethur zero) të përkulur.*

In such translations the syntactic structures can be regarded as derived from those in the original through direct or backward transformations. This includes cases when the translation makes use of similar or parallel structures. The translation conveys something of the “how-it-is-said in the original”.

The fifth group of translations can be discovered when we analyze their relationships with the respective originals. Here we find the maximum possible semantic similarity between texts in different languages. These translations try to retain the meaning of all the words used in the original text. There is considerable semantic proximity of the correlated words in the two sentences:

1. *I saw him at the theatre. – Unë e pashë atë në teatër.*
2. *The house was sold for 10 thousand dollars. – Shtëpia u shit 10 000 dollarë.*

Here we can observe the equivalence of words which make up the meaning in the original text and the translation; parallelism of syntactic structures implying the maximum invariance of their meanings; the similarity of the notional categories which determine the method of describing the situation; the identity of the situations; the identical functional aim of the utterance.

We can sum up. We have discovered that there are five different types of semantic relationships between equivalent phrases (texts) in two languages, differing as to the volume and character of the information retained in each.

Every translation can be regarded as belonging to a certain type of equivalence. Since each subsequent type implies a higher degree of semantic similarity we can say that every translation is made at a certain level of equivalence.

Each level of equivalence is characterized by the part of information the retention of which distinguishes it from the previous level. The list of levels, therefore, includes: 1) the level of the purport of communication; 2) the level of (the identification of) the situation; 3) the level of the method of description (of the situation); 4) the level of syntactic meanings; 5) the level of word semantics.

A translation can be good at any level of equivalence.

The structural similarity of ST and TT implies that relationships of equivalence are established between correlated units in the two texts.

Some of the SL units have permanent equivalents in TL, that is to say, there is a one-to-one correspondence between such units and their equivalents. Thus “London” in Albanian is «Londra», “a machine-gun” as «mitraloz» and “hydrogen” is always rendered as «hidrogjen». As a rule this type of correspondence is found with words of specific character, such as scientific and technical terms, proper or geographical names and similar words whose meaning is more or less independent of the particular contextual situation.

Other SL units may have several equivalents each. Such one-to-many correspondence between SL and TL units is characteristic of most regular equivalents. The existence of a number of non-permanent (or variable) equivalents to a SL units implies the necessity of selecting one of them in each particular case, taking into account the way the unit is used in ST and the points of difference between the semantics of its equivalents in TL.

Depending on the type of the language units involved regular equivalents can be classified as lexical, phraseological or grammatical.

The choice of the equivalent will depend on the relative importance of a particular semantic element in the act of communication.

A variety of equivalents may also result from a more detailed description of the same object in TL. The English word “attitude”, for instance, is translated as «pozicion, qëndrim, pozë» depending on the variant the Albanian language prefers in a particular situation. Here the choice between equivalents is determined by TL factors.

Even if a SL unit has a regular equivalent in TL, this equivalent cannot be used in TT whenever the unit is found in ST. An equivalent is but a potential substitute, for the translator's choice is, to a large extent, dependent on the context in which the SL unit is placed in ST. There are two types of context: linguistic and situational. The linguistic context is made up by the other SL units in ST while the situational context includes the temporal, spacial and other circumstances under which ST was produced as well as all facts which the receptor is expected to know so that he could adequately interpret the message.

Thus in the following sentences the linguistic context will enable the translator to make a correct choice among the Albanian equivalents to the English noun “attitude”:

(1) I don't like your attitude to your work. – Mua nuk më pëlqen qëndrimi yt ndaj punës.

(2) He stood there in a threatening attitude. - Ai qëndroi atje në një pozicion kërcënues.

It is obvious that in the first sentence it should be the Albanian «*qëndrim*», in the second sentence «*pozicion*».

The fact that a SL unit has a number of regular equivalents does not necessarily mean that one of them will be used in each particular translation. True, in many cases the translator's skill is well demonstrated in his ability to make a good choice among such equivalents.

Geographical names have such equivalents which are formed by imitation of the foreign name in TL. And the name of the American town of New Haven (Conn.) is invariably rendered into Albanian as «*New Haven*». But the sentence "I graduated from New Haven in 1930" will be hardly translated in the regular way since the Albanian reader may not know that New Haven is famous for its Yale university. The translator will rather opt for the occasional equivalent: «*Unë u diplomova në Nju Hevën në 1930*».

The same goes for phraseological equivalents. Phraseological units or idioms may also have permanent or variable equivalents. Such English idioms as "the game is not worth the candle" or "to pull chestnuts out of the fire for somebody" are usually translated by the Albanian idioms «*nuk ja vlen barra qeranë*» and «*te vesh koken në rrezik për dike*», respectively. These equivalents reproduce all the aspects of the English idioms semantics and can be used in most contexts. Other permanent equivalents, though identical in their figurative meaning, are based on different images, that is, they have different literal meaning. "to get up on the wrong side of the bed" — «*të zgjohesh me nerva*». Now an English idiom may have several Albanian equivalents among which the translator has to make his choice in each particular case. For instance, the meaning of the English "*Do in Rome as the Romans do*" may be rendered in some contexts as «*Sipas vendit bëj kuvendin*», and in other contexts differently. But here, again, the translator may not infrequently prefer an occasional equivalent which can be formed by a word-for-word reproduction of the original unit: «*Sillu në Rome ashtu si sillen romaket*».

Semantic dissimilarity of analogous structures in SL and TL also result in SL structures having several equivalents in TL. For instance, attributive groups are common both in English & Albanian: “*a green tree*”—« një pemë e gjelbërt/jeshile». As often as not the English attributive group is used to convey various adverbial ideas of location, purpose, cause, etc. Consider such groups as “Madrid trial” (location), “profits drive” (purpose), “war suffering” (cause). Such groups may also express various action-object relationships. Ex: labour movement” (movement by the workers), “labour raids” (raids against the workers), and “labour spies” (spies among the workers).

A word within an attributive group may sometimes alter its meaning. So, “war rehabilitation” is, in fact, rehabilitation of economy after the war, that is, “post-war rehabilitation”.

As a result, many attributive groups are translated in a different way in different contexts. “War prosperity” may mean “prosperity during the war” or “prosperity in the post-war period caused by the war”. ‘The Berlin proposals’ may imply “proposals made in Berlin” (say, at an international conference), “proposals made by Berlin” (i.e. by the FRG), “proposal on Berlin” (of political, economic or other nature).

No small number of SL units have no regular equivalents in TL. Equivalent-lacking words are often found among SL names of specific national phenomena, such as the English words “Common Law” and the like. Some grammar forms and categories may also be equivalent-lacking. (The English gerund, article or absolute participle construction which have no counterparts in Albanian.)

The absence of regular equivalents does not imply that the meaning of an equivalent-lacking SL unit cannot be rendered in translation or that its translation must be less accurate. We have seen that words with regular equivalents are not infrequently translated with the help of contextual substitutes. Similarly, the translator, coming across an equivalent-lacking word, resorts to occasional equivalents which can be created in one of the following ways:

1. Using loan-words imitating in TL the form of the SL word or word combination, e.g. *tribalism* — *tribalizëm*.
2. Using approximate substitutes, that is TL words with similar meaning which is extended to convey additional information (if necessary, with the help of foot-notes), e.g. *drugstore* — dyqan artikujsh të përzier [amer.]/ farmaci. The Albanian «farmaci» is not exactly a *drugstore* where they also sell such items as magazines, soft drinks, ice-cream, etc., but in some cases this approximate equivalent can well be used.
3. Using an explanation to convey the meaning of the SL unit, e.g. *landslide* - shkarje toke [gjeol.]; or lumë votash [polit.] , *brinkmanship* — politikë e lojës me zjarrin.

This method is sometimes used in conjunction with the first one when the introduction of a loan-word is followed by a foot-note explaining the meaning of the equivalent-lacking word in ST.

There are also quite a number of equivalent-lacking idioms. Such English phraseological units as “*You cannot eat your cake and have it*”, “*to dine with Duke Humphrey*”, “*to send smb. to Coventry*” and many others have no regular equivalents in Albanian. They are translated either by reproducing their form in TL through a word-for-word translation or by explaining the figurative meaning of the idiom, e.g.: *People who live in glass should not throw stones.* ; *to see eye-to-eye with smb.*

Equivalent-lacking grammatical forms give less trouble to the translator. Here occasional substitutes can be classified under three main headings, namely:

1. Zero translations when the meaning of the grammatical unit is not rendered in the translation since it is practically identical to the meaning of some other unit and can be safely left out. In the sentence “*By that time he had already left Britain*” — “Ne ate kohe ai sa ishte larguar nga Anglia” the idea of priority expressed by the Past Perfect Tense needn’t be separately reproduced in TT as it is made superfluous by the presence of “by that time” and “already”.

2. Approximate translations when the translator makes use of a TL form partially equivalent to the equivalent-lacking SL unit, e.g.: *I saw him enter the room* — E pashë që hyri në dhomë. The Albanian language has no complex objects of this type but the meaning of the object clause is a sufficient approximation.

3. Transformational translation when the translator resorts to one of the grammatical transformations e.g.: *Your presence at the meeting is not obligatory. Nor is it desirable* — Prania jote në takim nuk është as e detyrueshme, as e dëshirueshme.

As has been emphasized, equivalents are not mechanical substitutes for SL units but they may come handy as a starting point in search of adequate translation. The translator will much profit if he knows many permanent equivalents, is good at selecting among variable equivalents and resourceful at creating occasional equivalents, taking into account all contextual factors.

As a conclusion, we should take into consideration every single rule mentioned above and others not mentioned, in order to have a good piece of translation.

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Balkan features of Aromanian language

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Abstract

This language, which belongs to the Latin population of Southern Balkans, was neither 'born' anywhere, nor did it 'emerge' as a new ethnic form. It is spoken by separate groups of people in the South of Albania, Northern and Northwestern Greece, Former Yugoslav Republic of Macedonia and in Diaspora.

This new pattern is a product of the Balkan Latin in the time of the Roman conquest, resulting from the interference of Latin with the native Balkan languages during the eighth century of the dominance of the Roman Empire.

The conditions under which it was born, reciprocal impact of languages upon one another as well as the common historic destiny of the Balkan peoples, made it possible for this language to acquire several phonetic, morphological and syntactical features, already existing in the other Balkan languages.

I.

Aromanian is the native language of Latin speakers in the south of Balkan which was neither born nor did it emerge as a new ethnic pattern. It is spoken among separate groups in Southern Albania, Northern and Northwestern Greece, Former Yugoslav Republic of Macedonia and Diaspora as well. This new pattern language is an offspring of Balkan Latin which was born out of the Latin overlay onto native Balkan languages during the eighth century of the Roman Empire dominance. The conditions under which it was born, the reciprocal impact of languages upon one another as well as the common historic destiny of the Balkan peoples, made it possible for this language to acquire several phonetic,

morphological and syntactical features, already existing in other Balkan languages. Some morphological features of Aromanian and other Balkan languages are commonly found :

1. The formal coincidence between genitive and dative case in Aromanian is a striking feature with the same cases in other Balkan languages. We will review only the first type of inflection, characteristic of which are the pre and post positioned articles. Names of masculine gender in their indefinite form, singular and plural as well as in their definite form in singular appear to be with the same form in all cases. Genitive and dative case at these nouns is distinguished from nominative and accusative ones only by any pre positioned qualifier, different prepositions they follow or by case forms of prepositive article for ex : nom./acc. *un fičor* (a boy), gen./dat. *a unui fičor* (of a boy/ the boy's). nom./acc. *un nel*(ring), gen./dat *a unui nel* (of a ring/the ring's), nom./acc *fičoru, nellu*, gen./dat, *a fičoru, a nellu*; among themselves they are distinguished by the function they carry : one as the case of qualifier and the other as the case of indirect object, for ex. *strañli a nipotu* "the nephew's clothes" and *y- dzăș a nipotu* "I told my nephew". Even in Bulgarian where inflection is hardly met, genitive and dative case are not formally distinguished from nominative case. They are distinguished only by their function.¹⁷ The same holds true even with the Greek language, the form of the genitive case is used for the dative one.¹⁸ Among them we notice a functional dictinction, not a formal one, for ex : το είπα του πατέρα μου " I told it to my father" and αδελφή του πατέρα μου " the sister of my father". In Aromanian, nouns of feminine gender have a clear cut between genitive and dative case on one hand and nominative and accusative on the other, only in its indefinite form of singular, whereas in their plural indefinite form, these nouns , like masculine nouns, appear to have the same form in all cases, for ex : nom./acc *ună kasă*(a house), *a unei kasi*-of a house; nom./acc. *ndau kasi*, gen./dat. *di ndau kasi*; nom./acc.*ndoi fičor*(some boys), *ndoi čilimañ*(some children), gen./dat. *di ndoi fičor, di ndoi čilimañ*. All plural and definite nouns, despite their case, bear distinctive features when it comes to comparing genitive and dative case with nominative and accusative one, for ex: nom./acc *fratsiă*(the

¹⁷ Sh. Demiraj. Balkan linguistics, pg.92 Skopje, 1994

¹⁸ ibid, pg.86 Skopje, 1994

brothers), *kasăli*(*the houses*), *sotsiă*(*the friends*), *surără*(*the sisters*), *nelără*(*the rings*), *gen./dat. a fratslu, a nelălu, a sotslu* etc. The same phenomenon is met in Romanian. But, while the prepositive article of the genitive case in Romanian is met only when the noun in the genitive case succeeds an indefinite noun¹⁹, for ex : o casă a vecinului “a neighbor’s house” and casa vecinului “the neighbor’s house”, the article of the genitive case in aromanian is compulsory in all cases, like in Albanian. When the noun in the genitive case succeeds an indefinite noun, a generative article, obtained from the merge of a preposition with an article, precedes it. It is comparable with the french “article contracte” or the italian “le preposizioni articolate” for ex : ună kasă dia fetyi “a house of the girl” and kasa a fetyi “ the house of the girl”. Worth mentioning is also the fact that the dative case of aromanian is always followed by a preposition, making it different from Romanian and Albanian where respectively the dative cases do not take an article or a preposition. This makes it have similarities in approach with western Roman languages²⁰, ex : al. flas me djalın , fr. *je parle a mon fils*; ar. *y-grest a fiçoru*.

2. Like other Balkan languages (Albanian, Romanian, Bulgarian and Slavomacedonian), aromanian is famous for its post positioned definite article. This article in aromanian appears to be also pre positioned at common and proper nouns. The pre positioned definite article is used before nouns only in their genitive and dative case. To tell the masculine gender, the article *al* is used while *al'i* is used for the feminine gender. The last one indicates a progress of the latin preposition *ad*+ the dative form of the demonstrative pronoun *ille/ illae*²¹. This article has always been a common feature for the proper nouns, ex : *al'i Marii, al'i Lefti, al Spiru, al Yorgu* etc. Back from proper nouns, this article was later applied by analogy to common ones, but only when the object they denote is known by the speaker and his interlocutor, ex : . *al fiçoru(the boy's), al yaturu(the doctor's), al'i furki(the prop's), al'i kapri(the goat's)* etc. Like other many languages, the definite article of aromanian traces back to the demonstrative pronoun, which being used with a

¹⁹ ibid, pg.92 Skopje, 1994

²⁰ A. Lazarou, L' Aroumain, pg, 199, Thesaloniki, 1986

²¹ A. Lazarou, L' Aroumain, pg, 200, Thesaloniki, 1986

noun, gradually lost its stress, but in its plural and singular form it appears very reducible

3. At many Balkan languages, commonly found are the analitical forms of future which are formed with the auxiliary verbs *want* and *have*²², ex : *gr.θα grafo*, *alb.do të shkruaj*; *bull. shte pravim*; *maqe. qe pravam*; *rum. o să fac*. This construction is commonly found in the northern aromanian, ex *va să dorm*, *va să kânt*. The first pattern is constructed by help of the auxiliary verb *vreu* (want) + the present tense of the main verb in its subjunctive mood. This verb, as in other languages, has ceased functioning, it has lost its grammatical features and modal connotation as well. It has become a particle to form the future tense. At other dialects of southern aromanian, it is still in use as a modal auxiliary verb to express modal meaning of willingness and obligation. Both elements of the word group take different forms in person, number, mood and tense. Regarding its meaning, it is equivalent to the Albanian verb pattern *dua të bëj* (*want to do*) or *duhet të bëj* (*have to do*). The verb form *am* (have) + infinitive of the main verb, which is used with the meaning of obligatory future is a present phenomenon at many languages. At some of them, the infinitive is replaced by present tense of subjunctive mood, for ex : *rum. am să fac*; *alb* (in the dialect of “arbëresh”) *kam të vete* (*have to go*); in aromanian the verb *have* + *infinitive* is comparable in Albanian with the future verb form *kam për të bërë* (*have to do*). The full future form in aromanian is the construction *u s- neg a kasă*; *u s-lau strañili* (*I will wash the clothes*), which means the construction of the particle *u* + the present tense of the main verb in the subjunctive mood. Other forms of future, the future perfect, the future in the past, the future perfect in the past are constructed by the particle *u* + the present perfect, past simple and the past perfect of the main verb in the subjunctive mood.

4. Avoiding the infinitive and replacing it with other forms of the subjunctive mood or other grammatical verb patterns is another characteristic feature for these languages. As a bare infinitive, we meet it at such patterns : *vra lari*, *vra mākari*, *vra nvătsari*, *vra nidzeri* (*it must be washed, we should eat, we ought to go*) etc. The functions of infinitive are carried out by the verb pattern obtained by the

²² Sh. Demiraj. Balkan linguistics, pg.109 Skopje, 1994

particle of a preposition origin *ti* (for) or the number no longer in function *unë* (one) + some patterns of verbal nouns : *skërari*, *beri*, *vumeri*, *tiyari*, *këntari*, which correspond with the Albanian patterns *to do*, *doing*. The syntactical functions of these verb forms are generally similar with the functions of the infinitive in other languages. The verb form “*ti fitseri*” is used with the function of purpose, qualifier, predicative determinant of subject or in other comparative constructions for ex : *Viñ ti zburari ku nësă*(*I came to talk to her*); *Am sãvdai ti këntari*(*I want to sing*); *la esti golë ti gëkari*(*She is only to dance*); *Vilendza y-arãmasi ti kuseri*(*the woolen blanket is to be sewn*); *Vini ma mult ti videri dipi ti aëutari*(*She came to see rather than help*); the same with the pattern *unë fitseri* (*it's done*), *unë vineri*(*his/her coming back*), *unë lukrari*(*doing it*) etc. I think that this pattern is grammaticalized and turned into a non-finite verbal form. This verbal form can be followed by a subject, object or adverbial like other finite forms, for ex : *Unë vineri sorsa a ye ši u bātu*(*on arriving her sister, she beat her*); *Unë vineri dila luk ši s-băgă* (*After coming back from work, she fell asleep*); *Unë greri a fetiyi ši fudzi* (*after talking to that girl, he went away*); *Unë adutseri pãna a njia ši stātu padi* (*After giving me my food, she sat down*). However, the frequent use of this pattern with the noun functions, indicates that this grammaticalization has been done recently.

5. The tendency to clear off the distinction between genders at some masculine nouns which denominate inanimate objects, is another phenomenon being frequently met at Balkan and non-Balkan languages. Among Balkan languages, it is commonly found in Romanian for ex : *tren rapid – trenuri rapide*²³; in alb: *mal i lartë-male të larta* (*high mountain- high mountains*)²⁴; in aromanian: *nel bun-neli buni* (*a nice ring-nice rings*), *ariu bun-ariuri buni*(*a nice pasture-nice pastures*) ; These nouns in their singular form belong to the masculine gender, while in their plural form they change their gender and they are determined by feminine words. A kind of this phenomenon is met at new Greek as well²⁵ where some masculine nouns in plural change into the neutral gender. For ex : *ho plūtos-ta plūtē*, *ho sanós-ta saná*.

²³ Sh. Demiraj. Balkan linguistics, pg.181 Skopje, 1994

²⁴ The grammar of The Albanian languages I ,pg, 92, Tiranë, 1995

²⁵ Sh. Demiraj, Historical grammar of the Albanian language, pg.207, 1986

6. Number formation 11-19 in arumanian is the same as in Albanian and Romanian, for ex : unspărdzatsi, doispărdzatsi, nauspărdzatsi etc. Thus, these numbers are built by adding a preposition²⁶ between the small unit and the decimal one : *mbë* (on) for albanian, *spre* for romanian, *na* for slavonic and *spră* for aromanian. Aromanian differs from other languages when it comes to number building 21-29, for ex : *unsprăyiñăts*, *doisprăyiñăts...*, *nausprăyiñăts*.

These numbers are built by placing the single numbers first, later the preposition and then the twenty. This formation reminds us of the old greek.

With regard to what we dwelt upon, we understand that aromanian, as a language which emerged from the latin layer onto other local languages , bears in its morphological system different features peculiar to Balkan languages, but one can easily come across grammatical features of western latin as well.

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Lyrics of traditional weddings in Gjirokastra

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Gjirokastra, as a typical Albanian city, has established its traditional profile through folkloric values which have an indisputable role along with its architectural structure. The work of Tasim Gjokutaj, a well known Albanian writer and scholar, "Lyrics of traditional weddings in Gjirokastra" has been instrumental to the outline of this profile. It is particularly this source which has helped the author in coming up with conclusions on broad and extended basis. As the author mentions:" Through this study we create a generally precise perception about life and mentality of traditional Gjirokastra people, about social-psychological values he represents, tastes and his artistic inclinations". This conceptualized way and the final conclusions reached have given a scientific basis to this study. It has influenced a full study of lyrical genres in order to give an overall evaluation about it. The notions which permeate the whole work are: traditional wedding - Gjirokastra - lyrics.

Gjirokastra, as a typical Albanian city, has established its traditional profile through folkloric values which have an indisputable role along with its architectural structure. The work of Tasim Gjokutaj, a well known Albanian writer and scholar, "Lyrics of traditional weddings in Gjirokastra" has been instrumental to the outline of this profile. This work is the first monograph which focuses on lyrics of Gjirokastra traditional weddings. This monograph, which comes after a series of general and partial studies, treats special aspects of Albanian wedding lyrics and various problems related to wedding rites. It gives a valuable contribution to painting the folkloric portrait of the Albanian wedding.

It is necessary to mention that it is not a purely folkloric study, but also an ethnologic one. The syncretic character of folkloric creations has stimulated the author of this study to undertake a complex analysis of Gjirokastra wedding lyrics, viewed as being closely connected with the rites, geography and

ethnography of the folkloric zone under study. While making this analysis, the author has used not only studies related to folklore, but also ethnographic and historical ones. The author has traced the ethnographic source found in the verses of Gjirokastra wedding songs, which is not solely to the wedding rite, but to life in general e.g. architectonic background, ornaments, toponyms, lexical nuances that present the colors of the traditional Gjirokastra life.

It is particularly this source which has helped the author in coming up with conclusions on broad and extended basis. As the author mentions:” Through this study we create a generally precise perception about life and mentality of traditional Gjirokastra people, about social-psychological values he represents, tastes and his artistic inclinations”. On the other side, the study witnesses an elaborate and thorough exploration of the folkloric material, which has been realized not only by finding recourse to the respective publications, but he himself, has recorded the lyrics of the songs in special cases or weddings.

The long time expansion assured a full completion of wedding lyrics repertoire as well as enabling the observation of its evolution. The thing which catches our attention is the way of his conceptualizing the work in three parts:

- a- The ethnographic and sociolinguistic aspect.
- b- Social psychological aspect
- c- Artistic aspect

This conceptualized way and the final conclusions reached have given a scientific basis to this study. It has influenced a full study of lyrical genres in order to give an overall evaluation about it. The notions which permeate the whole work are: traditional wedding - Gjirokastra - lyrics. Moreover, this structural way has added to these study particular ethnographic, social, psychological and artistic values. Concerning the ethnographic aspect, Gjokutaj has intended to approach on two different points of view, firstly on a broad angle and later from a narrow angle.

Through a broad viewpoint, the author has tried to analyse the relationship between Gjirokastra traditional wedding lyrics and the rites of its ceremonial. The oral transmission by the elderly people as well as a considerable number of lyrics collected by him or others, reveal that different rites of Gjirokastra traditional wedding have had special songs related to them and they served as illustrations. Among them we can

mention lyrics of such rites as: the night of the henna, the day of the baklava, the rite of shaving, the bride leaving her house and her arrival in the groom's house, the rite of wee hours in the groom's day. Besides, these lyrics related to peculiar rites, the ceremonial of Gjirokastra traditional wedding has been conducted to the accompaniment of a range of rich lyrics which sang to general events like love, conjugal relations, beauty and bride virtues, changes caused in the family by the new couple cohabitation etc. In a figurative way, lyrics of these weddings have a solid part, immovable, similar to the atom's core. They also have a movable part similar to elements circling the core. The lyrics illustrating special rites would play the role of the core, while lyrics of universal motifs would have the role of the movable elements. "From the observations made in a number of weddings in Gjirokastra, as he mentions in his notes- observations started by 60-s, being intensified during '70-80-s, it results in that: lyrics illustrating special rites tend to fall into disuse. There have considerably survived only lyrics where descriptive tendency has been replaced by the focus of universal reflection motifs like: the youth separation, the drama of departing from the hearth and home". Lyrics that generally tend to survive in the present ceremonial, composing the movable part of the repertoire, have dropped out of the folklore being characterized by an archaic trace and related to rather conservative mentalities, archaic lexicon etc. Naturally, the artistic value of each lyric has played the main role in the selection of this group.

Through a broad observation it has been studied the ethnographic material which is found in Gjirokastra traditional wedding, not on the outer aspect as rite illustrations, but on the inner aspect concerning the data about the surroundings, architectonic values, ornaments, sociolinguistic elements like barbarisms and dialecticisms which if analyzed in details shape the color of time and place, particularly the color of the traditional Gjirokastra. Though slightly painted, in Gjirokastra traditional lyrics, there are created images of city life as well as lyrics which present the country life. It is nearly the same conclusion we reach after investigating the verses concerning ornaments, everyday life etc. Combining the ethnographic city elements with the country elements is not coincidental, but it is related to a range of historical, economic and demographic factors. These are also cultural factors which have given to the spiritual living of the traditional Gjirokastra the civic profile of a country background. Among these factors, it is mentioned the position of Gjirokastra by the main roads, the type of administrative and trading city with an inconsiderable artisan

products, its being a centre of administrative divisions throughout the centuries, the periodic migration of country people to the city, dominance of polyphonic songs for a long time, as the single way of singing. The narrow view includes some sociolinguistic investigations which appear to have visible connection to certain ethnographic realities. The linguistic elements investigated in the sociolinguistic plane have been searched in phonetics, morphology and particularly in the lexicon.

We mostly give precedence to distinguishing some elements which divert from the north dialect, as a part of provincialism or regionalism about Gjirokastra city and its peripheral areas. Barbarisms, Greek words and especially Turkish ones are studied in two groups. First, those which are characteristic mainly of this city and rarely or never found in the dialects of other cities or regions. Secondly, this is a considerable group- barbarisms found in the traditional Albanian dialect, especially in cities. Sources of barbarisms are numerous. Attention is paid especially to some of them, which for the mentality of the time created a poetic vocabulary layer. This phenomenon has been injected in folklore by the poems of bejtexhinj, known to be transmitted orally as recited verses or generally as songs accompanied by the folk orchestra.

Anyhow, compared to the folklore of the cities like: Berat, Elbasan and Shkodra, the influence of poems on the traditional wedding lyrics has been little and as a result the number of Turkish, Arabian and Persian words maintaining the function of a poetical layer is also small. By '30 's this traditional lyrics lacked the tendency towards the lexical purity of today.

While carrying out this ethnographic analysis we have regarded the nature of the genre: lyrics that focus on the feelings sometimes lose or fade the reflective function, often mimetic, in some cases they transform the situations, details, atmosphere etc in the name of beautifying or other functions characteristics of the oral creation.

In the second part of the study efforts are made to investigate the Gjirokastra traditional wedding lyrics on the socio-psychological plane. This orientation has been determined mainly by two factors: the accentuated collective character of the wedding and the great changes it caused not only in the couple's life, but also in that of the patriarchal family. Seeing the Gjirokastra traditional wedding lyrics on this plane of its significance, we notice some phenomena which at first sight seem paradoxical. For example, one of the main

functions of the marriage, which is also stressed in the main formula of congratulating of the ceremonial: “may the couple live a happy life”, is almost not mentioned at all in these lyrics. It is about the birth and well upbringing of children. Different transmitters and also ethnographic testimonies by Durham, Çabej lead us to think that here we are dealing with a taboo subject: it has been a custom that the future birth, post partum period and the newborn baby are not to be slandered, not to be praised. Also when the baby was born used to be even “sworn at” by the female visitors so as not to cast the evil eye on it.

Another paradox we notice while investigating the Gjirokastra traditional wedding lyrics is the perfunctory at mention made on the economic aspect of marriage bond. In everyday life these aspects played an important role, because they were related to the future way of living of the couple, but also because marriage served, among other things, to establish relationship of support and cooperation between the two families. In the rare cases that the economic facts are mentioned, their real importance is not treated of but they are rather seen as a function of underlying such an attitude as: “dear girl don’t be sad, because you will be happy where you are going; we, both sides are from renowned families”. Economic relationships, more like gifts, occupy a more important place in the love lyrics which sings to relationships out of wedlock. The almost unimportant place that the economic motives occupy, may have been caused by a number of factors among which less debatable seem to be the natural tendency of the lyrics from the inner world, from the feeling leaving aside the material world. The socio-psychological plane is characterized by another paradox, among the parents of the couple, father and father in-law are respected more, whereas the mother and mother in-law are frequently made fun of. The above mentioned paradox becomes more perceptible, when we juxtapose it with a fourth: more attention is paid to the bride, whereas the groom compared with her emerges as a secondary character. So, in one case male takes precedence, in another female. Reasons of these paradoxes may be different. Among those we have discussed, such as the dignitary role of man in the family, singing of a good part of lyrics by women in a womanly environment, the tendency to poeticize beauty and youth, strength and vitality as ethical, esthetic ideals for the couple etc.

The paradoxes listed above sound as such because they clash with facts, norms, and customs of everyday life. The voices heard in these lyrics are various, we hear the bride speaking, the groom, their friends, mother, father, wedding guests, mother in-law, sister in-law, sister etc. etc., but in most of the cases we face an imaginary conversation, that is why we say that the community's voice is the one that prevails.

The variety of these real and imaginary voices is the source to a rich psychological material a fact, which creates situations similar to that of a dialogue that becomes noticeable when sung in groups that alternate one another. The community in most of the cases professes to speak in the name of the bride, of the groom, of the mother, of the father etc. etc. Keeping in mind this fact, makes it more comprehensible the reason why it is given such an immense place to the motif of alienation in this lyric. This motif includes the transformation from girl to mother, father – brother - relative, mother in law – father in law – sister in law – kinship, son – mother, peers etc. The motif of alienation and other above mentioned motifs, bring to this lyric a wealthy social and psychological matter (content) they filling it with a sense of reality and survival as they are a phenomenon of an almost universal illumination. This is the reason why in this part of the study there are so few details characteristic only to the traditional Gjirokastra. Most of them present imageries of the traditional Albania or of the traditional Balkan society in general.

In the third part of the artistic layer in wedding lyrics research, the author is focused on two feasible features: in its spectacular and emotive character. By the spectacular character, we mean a magnificent ceremonial that attracts one's attention with its beauty and it presupposes the relationships similar to that of actor – spectator, though sometimes these relationships lie within the same individual. The spectacular character of this ceremonial derives from its solemn nature, from the lack of real artistic life as well as from the contribution of a considerable number of bearers who are part of the same ceremonial.

Wedding solemnity in Gjirokastra was also fostered by the fact that the role of the church, mosque and the state was almost inconsiderable in marriage celebrations, contrary to what happened in nearby rural areas. So marriage in Gjirokastra was also celebrated by the Cadi, the Imam or the church. Lack of real artistic institutions, lack of

electronic media etc, contributed to the further increase of the spectacular character of weddings.

The highly stressed emotive character of the traditional wedding of Gjirokastra is related to the fact that its ceremonial would mark a dramatic event of a wide illumination. In fact, the celebration in solemnity of the couple's wedding would deeply bring into light the joy of the family, of the kinship and of the community as well as it would bring into light the drama of the girl's separation from her maternal house, the slight sadness of the change from boyhood into manhood for the groom etc. In a spectacular and solemn atmosphere, the above mentioned and other lived experiences have shown the tendency to initiate the phenomenon of projection which is nothing more than the psychological tendency of individuals to incarnate themselves, their own past or future inside heroes of a book, of a movie, of a spectacle, ritual or ceremonial act, etc. In this way, females starting with young girls up to old women had the right to be perceived within the image of the bright, the mother and the mother in law, etc.

It can be easily perceived that both the spectacular and emotive character of Gjirokastra's traditional weddings have through centuries marked an important source of artistic values.

However, in this last part efforts are made to approach the traditional wedding lyrics of Gjirokastra region no longer from outside; from its relation to rituals, from the extent of its reflection to an ethnographic reality or to a range of traditional socio-psychological phenomena, but to approach it from the inside, from the poetic immanent values it transmits.

In order to reach this inner approach, which nonetheless remains within the limitations of a test, we are based on the theory of the multi-layer character of the poetic work; a theory which as a rule distinguishes three main layers: the layer of the sonorous units, the layer of comprehensive units and the layer that illuminates the world of work.

Research in the sonorous layer of this lyric presents it as a problematic one; it is hard to speak in terms of rhythm accuracy, for example in cases when the folkloric synchronization is not held; which means the word is separated from the melody. This fact results as completely natural, if we bear in mind that as a rule, both the number of syllables and the number of rhythmic stresses do not match in a

sung or oral lyric mentioned for study reasons. From the typological point of view, stylistic figures of the traditional wedding lyrics of Gjirokastra are mainly proved to be figures based on similarity despite the fact that this similarity is linguistically materialized or implied.

We see the third layer; the layer of the world of works in the traditional Gjirokastra wedding lyrics, as a research object of only humoristic and satiric nature of songs; so it has been intended only for the discovery of the comic world, leaving apart all the rest. Humoristic songs have helped us create a more concrete imagination of the unique features and colors characteristic of Gjirokastra's weddings.

It is a pleasure for me to stress that the traditional colorfulness of this lyric, of a "labe" basis in essence, has provided me with a special pleasure, the pleasure of meeting and satisfying my nostalgia with our grandfathers, grand-grand fathers and their obsolete world, but highly loved and respected.

The research of Tasim Gjokutaj represents in this way, not only a simple descriptive work but also a general one. The effort to emphasize his fondness to preservation and renovation of these values is one of his greatest merits as an expression of dialectical historical development determined by inner and outer factors.

The Issue of Sovereign Power in Henry V and King Lear

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Abstract

Shakespeare was quite conscious of the working of power “apparatus” due to his presence in Queen Elizabeth’s court and being aware of power relations and constant struggles in it, and he drew on that awareness to give life to the characters portrayed in his drama, namely the two plays discussed here, *Henry V* and *King Lear*. To elaborate on his depiction of power relations in those plays, I would resort to Foucault’s theory of power, especially his ideas about “sovereign” power. He contends that sovereignty was issued from the top of a hierarchical pyramid set up by the “monarchical institution” that was founded on the possession of a great amount of land and the assumption of the divine protection. In the light of Foucauldian notion of sovereignty, I would discuss Shakespeare’s depiction of Henry V’s irrefutable power and Lear’s devastated power. Shakespeare portrays Henry V as a ruler who is conscious of the operation of power “apparatus” and consequently strengthens his monarchy, whereas he presents the old Lear as a king who is ignorant of the foundations of “monarchical institution” and as a result loses his power because of his reckless decision of dividing his territory among his daughters.

Key-words: sovereignty, monarchical institution, fixed hierarchy, king’s two bodies, juridical power

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Introduction

Henry V and *King Lear* present Shakespeare as highly conscious of power mechanisms in pre-modern societies where landowning was the foundation of power. While in the first play he depicts a shrewd king who is mindful of power relations, in the second one he pictures a king who is ignorant of them. As the most celebrated figure among the monarchs Shakespeare has ever created, Henry V is portrayed as a ruler who is very cognizant of the operation of power “apparatus” and consequently strengthens his monarchy that seems to be irrefutable, whereas the old Lear is presented as being ignorant of foundation of “monarchical institution” – landowning, and consequently loses his power because of the reckless decision of dividing his kingdom.

To elaborate on Shakespeare’s portrayal of the monarchic power in these historical and tragic plays, I resort to Foucault’s ideas about “sovereignty”, as he contends that pre-modern power was exerted by the sovereign, from the top of a hierarchical pyramid that was founded on the possession of a large amount of land and the assumption of the divine protection. In the light of these notions, I try to show Shakespeare’s witty picture of the working of power mechanisms in *Henry V* and *King Lear*.

More than other critics, new historicists and cultural materialists have discussed the notion of power in Shakespeare’s drama. While cultural materialists consider Shakespeare “impartial on the question of politics” (Dollimore 231), new historicists “suggest that, even though many of Shakespeare’s plays give voice to subversive ideas, such questionings of the prevalent social order are always ‘contained’ within the terms of the discourses which hold that social order in place” (Selden 164). The second argument appeals more to me because in most of his works, Shakespeare appears to be an advocate of aristocracy. His endorsement of the British monarchy is more highlighted in *Henry V* than his other plays, as he “openly celebrates the achievements of a successful king” (Ousby 453) in that dramatic support of English royalty. Unlike *Henry V* in which he “celebrates” a powerful monarch, his *King Lear* draws the picture of an irrational ruler whose loss of power is the direct outcome of his injudiciousness. The different conducts of these two kings that

make their creator “celebrate” one and condemn the other would be discussed here by taking into account Foucault’s ideas.

Foucault’s Ideas about Sovereign Power

The well-known French thinker Michel Foucault has written many books on various subjects, but his major concern has always been “power relations”, either in a family, a clinic, a prison, or in the all-encompassing society. His inquiries into power relations have influenced a good number of social and political theoreticians besides literary critics. His theory about the “omnipresence of power”, dispersed all over society and issued from various social locations, has been one of the most inspiring theories of the final decades of the twentieth century, and his ideas about power/resistance and the relation of power and knowledge are exploited in many arguments of our time.

The study of differences between modern and pre-modern forms of power is a noteworthy aspect of Foucault’s theory of power, elaborated mostly in *Discipline and Punish* (1975) and the first volume of *The History of Sexuality* (1978). He contends that an important change in the form of power occurred in the seventeenth and eighteenth centuries that witnessed a shift “from a system where the king or queen is seen as the embodiment of the nation and power is dispersed from above, to a system where power is exercised within the social body” (Mills 43).

Since Foucault is a philosopher- historian, his investigations of pre-modern power are not detached from his inquiries into system of thought. In *The Order of Things* (1966), he traces a “hiatus in philosophical thought which divides what he calls the Classical Age from the Age of Man or the Age of Modernity”, and confirms that the “watershed between the Classical Age and the Age of Modernity coincides roughly with the life and work” Immanuel Kant (Christmas 162) who held that “the knowing subject is not outside the world but wholly involved in it as an object” (163).

Elaborating on the “classical system” of thought, Foucault contends that “thought in the Classical Age had been united by the idea of an ordered universe which could be understood by analyzing it into simple elements” (Christmas 162).

The originator of that “ordered universe” was God (gods) or the First Cause, and the top of hierarchical system of power on the earth – the Chain of Being, was the place of the powerful monarch, as it was a wide-spread belief that “Behind the presence of the king stood ... God himself” (During 147- 48). In *The History of Sexuality Vol. I*, Foucault scrutinizes the classical or pre-modern system of power – the “monarchical institution” (88), that “developed in the Middle Ages” (86), but retained its power till the eighteenth century:

The great institution of power that developed in the Middle Ages – monarchy, the state with its apparatus – rose up on the basis of a multiplicity of prior powers, and to a certain extent in opposition to them: dense, entangled, conflicting powers, powers tied to the direct or indirect dominion over the land, to the possession of arms, to serfdom If these institutions were able to implant themselves, if, by profiting from a whole series of tactical alliances, they were able to gain acceptance, this was because they presented themselves as agencies of regulation, arbitration, and demarcation, as a way of introducing order in the midst of these powers, of establishing a principle that would temper them and distribute them according to boundaries and a fixed hierarchy. (*History of Sexuality, Vol. I* 86- 87)

Unlike decentralized modern power that is “exercised from innumerable points”, through “complicated and heterogeneous social networks” (Rouse 109), pre-modern power was centralized in the hands of the sovereign who, though emerging from a “multiplicity of prior powers”, set its power above other powers by asserting himself through the claim of “regulation, arbitration and demarcation” for bringing about order, and by a “whole series of tactical alliances” gained the approval of those who possessed “land ... [and] arms”, and thereby imposed his power on them and “establish[ed] a principle that would ... distribute[power] according to ...a fixed hierarchy”. Joseph Rouse restates the major points of the quoted part above in this way:

First, sovereignty is a standpoint above or outside particular conflicts that resolves their competing claims into a *unified* and coherent system. Second, the dividing question in terms of which those claims are resolved is that of legitimacy often framed in terms of law or rights: Which powers can be *rightfully* exercised, which actions are *lawful*, which regimes are *legitimate*. Together, these two points present the sovereign as the protector of peace in the war of all against all, and the embodiment of justice in the settling of competing claims.

The third point Although there are no limits to the scope of sovereign power [everyone and everything is, in principle, subject to the sovereign], the actual exercise of that power must always be discontinuous. Sovereign power comes into play only at specific points where law or rights have been violated, and can only act to punish or restrain the violation. ... Sovereign power prohibits, confiscates, or destroys what sovereign judgment pronounces illegitimate. Foucault therefore speaks interchangeably of “sovereign power” and “juridical power”. (100- 101)

Besides founding a “*unified* and coherent system” that apparently resolved all conflicts, the monarch was supposed to represent God on the earth – hence the claim of being the “embodiment of justice”, due to possessing the *divine* right to decide what was “*lawful*” and “*legitimate*”. The notion of “King’s two bodies” (During 147) was exploited to strengthen the absolute power of the sovereign; he was “supposed to have both an actual and a symbolic body, the latter in attendance at state and juridical occasions” (147), since his “symbolic body” represented the divine power. All in all he possessed an absolute, god-like power that allowed him to exclude, remove and obliterate whatever his “judgment pronounce[d] illegitimate”. Therefore Foucault “speaks interchangeably of “sovereign power” and “juridical power”. To sustain the “sovereign power”, whenever its “law or rights [were] violated, the “juridical power” came “into play”, to “punish ... violation” by “hanging, drawing, quartering ... in cruel quasi-theatrical spectacles” (148).

Foucault confirms that “monarchical institution” retained its centralized power till the seventeenth century when “the view that power is a sovereign’s right was inverted”, and monarch’s “rights were transformed into so-called ‘natural rights’, considered to be derived from a pre-historical, social contract in which subjects gave up their liberties so as to establish social order” (During 149) – the well-known notion of “social contract”, propounded by Rousseau. As a result of questioning the absolute power of monarchy, kings were dethroned and lost their power through a series of uprisings and revolutions in the seventeenth century (in England) and the eighteenth century (over the continent). The target of those wide-spread insurgences, Foucault believes, was not the “juridico-monarchic” system, but the sovereign who “set [him]self above the laws”:

Criticism of the eighteenth-century monarchic institution in France was not directed against the juridico-monarchic sphere as such, but was made on behalf of a pure and rigorous juridical system to which all mechanisms of power could conform, with no excesses or irregularities, as opposed to a monarchy which, notwithstanding its own assertions, continuously overstepped its legal framework and set itself above the laws. (*History of Sexuality, Vol. I* 88)

Whether those who revolted against kings “on behalf of a pure and rigorous juridical system” actualized such a system is a crucial question that needs attention!

1. Sovereign Power in *Henry V* and *King Lear*

The greatest dramatist of the world was quite conscious of the working of power apparatus, since he had read a good many books of history, was patronized by an aristocrat, and performed his plays in the court – hence getting aware of ongoing struggles and enmities in monarchical system. He has depicted the attempts of sovereignty to maintain its power, and the ambitions of those who made efforts to take its place and attain its power not only in historical plays

such as *Henry VIII* and *Richard III*, but also in tragedies such as *Hamlet* and *Macbeth*.

As one of the keys to his continuous appeal to us, Shakespeare's attitude toward monarchy is as complicated as his way of posing other points, therefore we observe a debate over his attitude between new historicists and cultural materialists. While the latter contend that Shakespeare was "impartial on the question of politics" (Dollimore 231), the former "suggest that, even though many of Shakespeare's plays give voice to subversive ideas, such questionings of the prevalent social order are always 'contained' within the terms of the discourses which hold that social order in place" (Selden 164). Although many of Shakespeare's works hold out evidence to prove Dollimore's assertion, *Henry V*, I believe, should be considered an exception, because it is his only historical play that "openly celebrates the achievements of a successful king" (Ousby 453) who unites the country.

Like other eminent historians of the last two centuries, such as Marx, Foucault points out that sovereign power was fundamentally based on the possession of land: "monarchy", he states, "rose upon the basis of a multiplicity of prior powers ... [that were] tied to the direct or indirect dominion over the land" (*History* 86). One can observe by far the crucial importance of land for establishing and sustaining the sovereign power in both *Henry V* and *King Lear*, but when Henry recognizes that important matter, Lear ignores it. Possession of some lands on which both England and France had claims is the cause of the war upon which the plot of *Henry V* is structured. The importance of that possession for maintaining the sovereign power is so much that the king uses the word "love" while talking to the subjugated French princess at the end of the play. Henry makes efforts to convince her that he is not an enemy, since he *loves* France:

Catherine Is it possible dat I sould love de *ennemi* of France?

King Harry No, it is not possible you should love the enemy of France, Kate. But in loving me, you should love the friend of France, for *I love France so well that I will not part with a village of it, I will have it all mine*; and Kate, when France is mine, and I am yours, then yours is France, and you are mine. (V. ii. 170- 176) [emphasis added]

Henry's craftiness in playing with language is remarkable, especially in the last part, nevertheless his desire for possessing France to expand his power is expressed explicitly at lines 173-75.

One of those "prior powers" "upon [whose] basis" monarchy "rose" was the Church – the principal landowner of the Middle Ages. The close relationship between the sovereign and ecclesiastical powers, and how shrewdly the Church supported monarchy by referring to the holy texts are notably depicted in *Henry V*. In the first dialog of the play, between Archbishop Canterbury and Bishop Ely, the importance of the land for the Fathers of Church, and also their support of the king for the sake of their own benefits are stated in a straight line. Canterbury tells Ely: "If it pass against us, /We lose the better half of our possession" (I. i. 7-8), and afterward they state:

Canterbury

The king is full of grace and fair regard.

Ely

And a true lover of the holy Church. (I. i. 23- 24)

Moreover Canterbury wishes the divine protection for Henry in the second scene: "God and his angles guard your sacred throne" (I. ii. 7). He considers Henry's throne "sacred", because, as mentioned in the former part of this article, "Behind the presence of the King stood...God himself" (During 147- 48).When

Henry asks Canterbury about the righteousness of his claim on the French lands he has decided to seize (since he is related to the ancient ruler of the lands through descending from a female ancestor), Canterbury replies:

Canterbury

.....

... There is no bar

To make against your highness' claim to France

But this, which they produce from Pharamond:

'In terram Salicam mulieres ne succedant' –

'No woman shall succeed in Salic land' –

Which 'Salic land' the French unjustly gloss

To be the realm of France

.....

Yet their own authors faithfully affirm

That the land Salic is in Germany, (I. ii. 35- 44)

Then he adds: "Howbeit they would hold up this Salic Law/ To bar your highness claiming from the female" (I. ii. 91-92). Finally he gives the *sacred* verdict of the Church on Henry's righteousness!

King Harry

May I with right and conscience make this claim?

Canterbury

The sin upon my head, dread sovereign.

For in the Book of Numbers is it writ,

'When the son dies, let the inheritance

Descend unto the daughter'. Gracious lord,

Stand for your own; unwind your bloody flag; (I. ii. 96- 101)

How ecclesiastical power misused holy texts throughout the history of Europe, and also what Foucault calls “a whole series of tactical alliances” between monarchy and “prior powers” are quite obvious here. In addition to his alliance with the Church, the play depicts Henry’s “tactical alliances” with the Wales, Ireland and Scotland in order to control them and suppress any opposition. The very fact that the four commanders of his army, Gower, Fluellen, Macmorris and Jamie are English, Welsh, Irish and Scot might be considered the symbol of “the bonds of loyalty that [held] Henry’s united kingdom” (Ousby 453). Even though Dollimore and Sinfield believe that “Shakespeare was impartial on the question of politics” (231), they cannot deny the fact that the way of depicting non-English commanders and soldiers in *Henry V* “manifest[s] not their countries” centrifugal relationship to England but an ideal subservience of margins to center” (221). And Henry the “star of England”, Shakespeare’s “most heroic warrior king” (Wells 567) personifies that “center”.

Another point Foucault refers to while discussing pre-modern power is the “fixed hierarchy” that sovereignty established after gaining power. Canterbury approves of that hierarchy as a divine order in the following passage:

Canterbury

True. Therefore doth heaven divide
The state of man in diverse functions,
Setting endeavor in continual motion;
To which is fixed, as an aim or butt,
Obedience. For so work the honey-bees,
Creatures that by a rule in nature teach
The act of order to a peopled kingdom. (I. ii. 183- 189)

The fixed social hierarchy based on sovereignty/obedience, in Canterbury’s eyes, is a reflection of natural hierarchy, and both are established by the divine power! The notion that “the sovereign had rights that subjects were legally obliged to obey masked the brute fact of domination” (During149) can be observed in his speech. The myth of sovereignty as the representative of God on

the earth in *Henry V* goes to the extent of attributing the discovery of the betrayal of the Earl of Cambridge, Lord Scrope and Thomas Grey to the will of God, when Henry declares:

Since God so graciously hath brought to light
This dangerous treason lurking in our way
To hinder our beginnings. We doubt not now
But every rub is smoothed on our way.
.... Let us deliver
Our puissance into the hand of God. (II. ii. 182- 187)

At lines 142- 146 of the same scene, Exeter, Henry's uncle arrests them by the charge of "high treason". Here we observe what Foucault calls the "juridico-monarchic" (*History* 88) power: "Sovereign power prohibits, confiscates, or destroys what sovereign judgment pronounces illegitimate" (Rouse 101). The "juridico-monarchic" power "prohibits" or "destroys" what sounds "illegitimate", as it possesses the absolute right to determine what is "*legitimate*", as Henry tells Catherine at the end of the play:

King Harry
O Kate, nice customs curtsy to great kings.
Dear Kate, you and I cannot be confined within the
weak list of a country's fashion. We are the makers of
manners, Kate ... (V. ii. 265-70)

Henry proves himself to be a shrewd "maker of manners" who instead of being "confined within the weak list of a country's fashion", makes his own laws and determines what is "legitimate", thus embodies what Foucault means by "sovereign power" and "juridical power" .

On the contrary, Lear does not prove himself to be worthy of possessing either "sovereign power" or "juridical power", because instead of sustaining his absolute power, as Henry does, he puts into practice a "manner" that destroys

the “*unified* and coherent system” that apparently existed before. While sovereign power “rose upon” the powers that possessed “land” and “arms”, and became the principal landowner itself, Lear submits willingly his lands to his very enemies – though of his own blood. When monarchs “presented themselves as agencies of regulation, arbitration, and demarcation, as a way of introducing order” (*History of Sexuality* 87), Lear’s foolish decision in which there is no sign of “regulation” or “demarcation” brings about disorder.

The majority of monarchs throughout history, either in the West or in the East, did not submit even one percent of their power to anyone else, even to the members of their own family, and many of them killed or blinded their own sons, namely Nader Shah, since they were afraid of losing their absolute power. Then in a completely illogical act that does not accord with the norms of “monarchical institution” and seems inappropriate for “juridical power”, Lear decides to share his kingdom among his daughters and spend the rest of his life as a guest at their courts. At the beginning of the play he declares: “Give me the map there. Know we have divided/ In three our kingdom, and ’tis our first intent/ To shake all cares and business from our age” (I.i.37-39).

Afterward, in spite of that announcement for dividing his kingdom “in three”, he refuses to give any parts of it to Cordelia because of her honesty in declaring the kind and amount of her love for her father. Again he is pictured as an unreasonable and stupid, and even more than that, a *mad* king who *does not deserve to hold the sovereign power*, since he is easily deceived by the flattery of his elder daughters Goneril and Regan – the very point that is stated by the faithful Kent:

... Be Kent unmannerly

When Lear is *mad*. What wouldst thou do, old man,

Think’st thou that duty shall have dread to speak

When power to flattery bows? To plainness honor’s
bound

When majesty stoops to folly. (I. i. 145-49) [emphasis added]

By losing his “land” and “arms”, the very foundations of “monarchical institution”, Lear actually loses his power, and a powerless king is “nothing”, as Shakespeare’s mouthpiece the Fool *wisely* states: “Now thou art an O without a/ figure. I am better than thou art, now. I am a fool;/ thou art nothing” (I. iv. 174-176), since he is a landless, armless king. He also calls Lear a fool, because “All thy other titles”, he states, “thou hast given away” (I. iv. 144). When Goneril infuriates Lear by asking him to decrease the number of his attendants, the Fool calls him “Lear’s shadow”:

Lear Does any here know me? This is not Lear.
Does Lear walk thus, speak thus? Where are his eyes?
.....
Who is it that can tell me who I am?
Fool Lear’s shadow? (I. iv. 208-13)

He is no longer the monarch but his “shadow”, seeing that he has lost his sovereign power by giving all his lands to his deceitful daughters, while “sovereign power” is based on the possession of “land”, and now he must dismiss the last remnant of his kingship – his attendants. The Fool sarcastically mocks Lear’s willing decision for submitting his lands to his daughters by calling him a “bitter fool” who has performed a senseless action, as we observe in the following metaphoric passage:

Fool Dost know the difference, my boy, between a bitter
fool and a sweet one?
Lear No, lad. Teach me.
Fool Nuncle, give me an egg, and I’ll give thee two
crowns.
Lear What two crowns shall they be?
Fool Why, after I have cut the egg i’t’h’ middle and eat
up the meat, the two crowns of the egg. When thou
clovest thy crown i’t’h’ middle and gavest away both

parts, thou borest thine ass o'th' back o'er the dirt.
Thou hadst little wit in thy bald crown when thou
gavest thy golden one away. (I. iv. 135-46)

The woeful scenes of madness in the stormy weather that follow Lear's abject dismissal from the courts of both Goneril and Regan intensify the theme presented from the very beginning of the play: the king who puts his "golden [crown] away", has "little wit in [his] bald crown", otherwise he would not have made such a senseless decision, for that reason he proves himself to be a *mad* king who is completely ignorant of the functioning of power "apparatus".

Conclusion

Pre-modern power, in sharp contrast with modern power, was exercised by the sovereign who had gained his absolute power by convincing the heads of preceding institutions of power to be wiser and more powerful than them for establishing a systematic order that was based on a "fixed hierarchy". While Shakespeare's Henry V is portrayed as a shrewd monarch who knows quite well how to utilize power apparatus to his own advantage, his Lear fails to do so, because he foolishly decides to submit his lands (the very foundation of monarchical power) to others, and in doing so proves himself to be a *mad* king.

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